

YELLOWSTONE RIVER OIL SPILL OVERSIGHT

HEARING

BEFORE THE

SUBCOMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE

OF THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

JULY 20, 2011

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ONE HUNDRED TWELFTH CONGRESS
FIRST SESSION

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YELLOWSTONE RIVER OIL SPILL OVERSIGHT

WEDNESDAY, JUNE 30, 2011

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m. in room 406, Dirksen Senate Office Building, Hon. Max Baucus(chairman of the subcommittee) presiding.

Present: Senators Baucus, Lautenberg and Vitter.

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. I call this hearing today to shine a bright light on a dark event, the oil spill in the Yellowstone River on July 1st. Montanans have suffered two disasters on the Yellowstone this year: devastating floods and spilled oil. The evidence shows that they are related, but there is no excuse for what happened on July 1st.

As Montanans, we love our State because of its wonderful rivers. The Yellowstone is God's country and it has trout to prove it. I have seen people come visit Montana, be transformed the first time they cast a fly in the Yellowstone. We raise food and we raise families on this river. And I might add it is the longest unobstructed river in the United States. It starts down at the Yellowstone Park and then moves, flows north of the Paradise Valley and makes a right-hand turn and then flows toward Billings and then joins the Missouri just the other side of the North Dakota border, the longest unobstructed river in the United States and Montanans are very proud of that.

But Montana also has good-paying jobs and we can drive to our favorite fishing holes. We can do that because of the oil in our pipelines, oil to refineries and then the gas pumps. These are just the facts.

Water is our most sacred resource and oil is our most basic fuel. Montana is rich in pristine waters and rich in energy and we cannot let them mix.

Today, we will examine what happened before and what happened after the spill; what went right and what could have been improved. Our first priority is getting this spill cleaned up and getting it cleaned up now. So I want to make sure that the Yellowstone is being restored immediately for everyone that depends on it. Just as important is that Montana landowners be made whole. This means a fast and effective cleanse process and it also means

a long-term commitment that Exxon will be there years down the road if the value of the land remains damaged by this spill.

And that commitment must include a plan to compensate our farmers and ranchers for potential long-term impacts on the crops they depend on to make a living.

And finally, we will look for potential lessons to be learned. We will ask tough questions about what happened, whether it could have been prevented. Were the effects of flooding in the Yellowstone properly considered when the Silvertip pipeline was designed? Is the pipeline operated with the specific characteristics of the Yellowstone in mind? This was not the first flood in Montana. It will not be the last.

We also know that there are many other rivers crossed by pipelines in Montana. So I want to know what can be done to make sure this never happens again.

It is also very important to me that Montanans have a voice in this process. I am proud we have two fellow Montanans here today. They are here today to share their stories and their insights. And to folks that are watching back home, we want to hear from you as well.

Senator BAUCUS. The official congressional Record will stay open for 2 weeks. Please give my office a call or send us an email to make sure your written comments are included in the record.

I look forward to the hearing. To all our witnesses, thank you very much for coming. I understand that Commissioner Bill Kennedy just got in on the red-eye from Montana. Montana is not next door. It is a little ways away. So thank you very much for coming. And so thank you very much.

All right. If any of the Members want to make statements?

I will begin with Mr. Perciasepe. Bob Perciasepe is someone I have known for years. I have a high regard for him, as he worked for the EPA. Bob Perciasepe is the Deputy Administrator of the U.S. Environmental Protection Agency.

We also have with us Hon. Cynthia Quarterman, Administrator of the Pipeline Hazardous Materials Safety Administration with the Department of Transportation on our first panel.

Our second panel includes Scott McBurney, a landowner in Montana. Thank you, Scott, for coming. And also Gary Pruessing, who is President of ExxonMobil Pipeline Company with, of course, Exxon.

So Mr. Perciasepe, why don't you begin first. And you are on the record, and just summarize for 5 minutes.

STATEMENT OF HON. ROBERT PERCIASEPE, DEPUTY ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. PERCIASEPE. OK. Mr. Chairman, thank you for inviting us today and we are happy to be here to discuss the role and activities of USEPA regarding the ExxonMobil pipeline break into the Yellowstone River and the resulting oil spill.

EPA, in coordination with our Federal, State, tribal and local partners is committed to protecting the Yellowstone River and the communities around it from the adverse environmental effects of the Silvertip pipeline oil spill.

As I think we all know now, this occurred on July 1st late at night. The break occurred in a 12-inch pipeline owned by ExxonMobil that resulted in a spill of crude oil into the Yellowstone River. The current estimate of the amount of oil released remains at 1,000 barrels based on information provided by ExxonMobil. But both PHMSA and the State of Montana are investigating all elements of this incident, including the amount of oil released.

EPA continues to hold ExxonMobil accountable for assessment and cleanup. The agency has issued an official administrative order to ExxonMobil directing the company to take a number of cleanup and removal and near-term restoration efforts. We will continually and carefully and thoroughly continue to review their work plans, data and field activities.

EPA shares the responsibility of responding to oil spills in the United States with the U.S. Coast Guard, as well as responsibility for prevention and preparedness with several other Federal agencies. As the principal Federal response agency for oil spills in the inland zone of the United States, EPA is the Federal on-scene coordinator for the Yellowstone River spill.

The Pipeline and Hazardous Materials Safety Administration is responsible for regulation and oversight of pipeline safety and my counterpart, whom you have already introduced, will discuss that agency's role with respect to the pipeline and oil spill prevention response.

I would also like to point out that the State, and especially Governor Schweitzer, have been integrally involved in the coordination and the coordinated response to this spill and have been an important partner in this response. The Governor's leadership in the deployment of several agencies and the State's consultation with experts from other States are representative of the extraordinary effort toward keeping the people of Montana affected by this spill informed about what is happening on the ground.

As part of our mission to protect public health and the environment and out of an abundance of caution, we have been collecting air, surface water and drinking water samples, and as the floodwaters have started to recede, soil and sediment samples. EPA has been actively engaged in overseeing the shoreline cleanup assessment techniques, or SCAT, activities, and the SCAT is a process of inspecting impacted areas for the degree of oiling and the types of soil and vegetation that needs to be cleaned up in a particular area.

The teams are now finding quantities of oil as the river levels go down under debris piles, and those of you who know unobstructed streams, as you have already defined, know that debris piles up, mostly wood and logs and vegetative material, will pile up in a stream during a flood and under those piles we are starting to see evidence of oil that has accumulated there because the water slows down underneath those piles.

So the SCAT teams, including the State's, are currently evaluating a range of options for remediating that oil, without causing greater damage to the ecosystem, which is always a balancing act that we have to play here.

To date, water sampling conducted by EPA indicates that there are no petroleum hydrocarbons above the drinking water standards

in that region. In addition, our air monitoring continues to show no detection of contaminants associated with the spill in the ambient air along the Yellowstone River at levels that would pose a threat to human health.

These monitoring efforts, along with sampling and monitoring taken or planned by our partners, will continue as we remain focused on taking all the necessary steps to protect public health. As additional data are collected, we will have a more comprehensive picture of the potential impacts.

In addition to our collection of real-time air samples, EPA also followed strict scientific and quality assurance protocols for the soil or sediment samples that are collected and sent to certified local laboratories for analysis and validation. As soon as EPA has updated data, we post the information on our website. In addition, we have been providing daily updates to the public and have held community meetings to keep the public informed.

I want to take this opportunity to quickly report on the assets being deployed for this incident. As of July 18th, there are 755 personnel onsite and 610 currently in the field engaged in cleanup or sampling activities. Cleanup crews have used 41,000 linear feet of materials such as absorbent booms and 9,000 square feet of materials such as absorbent pads. Crews have removed 942 barrels of oily liquid and 505 cubic yards of oily solids. The liquid waste is being processed through a permitted refinery wastewater treatment plant and the solid waste is being shipped to a facility to reclaim those materials. Evacuation also last weekend of the pipeline removed 370 barrels of oily liquid and about 80 barrels of oil.

Next steps, and I am just about done, in coordination with our Federal and State and local partners, EPA is committed to protecting the community from any adverse environmental effects from the oil. In the coming weeks, we will be transitioning from emergency response to the SCAT-driven process, toward a State-determined cleanup standard. EPA will continue monitoring, identifying and responding to potential public health and environmental concerns.

At this time and after my partner's testimony, I will answer any of your questions.

[The prepared statement of Mr. Perciasepe follows:]

**TESTIMONY OF
BOB PERCIASEPE
DEPUTY ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
July 20, 2011**

Chairman Baucus, Ranking Member Vitter, and Members of the Subcommittee, thank you for inviting me to discuss the role and activities of the U.S. Environmental Protection Agency (EPA) regarding the Exxon/Mobil pipeline break into the Yellowstone River and the resulting oil spill. EPA, in coordination with our federal, state, tribal, and local partners, is committed to protecting Yellowstone River communities from the adverse environmental effects of the Silvertip Pipeline oil spill.

BACKGROUND

EPA's Oil Spill Program focuses on activities to prevent, prepare for and respond to oil spills from a wide variety of non-transportation related facilities that handle, store, or use various types of oil. EPA regulates approximately 620,000 of these facilities, including oil production, bulk oil storage, and oil refinery facilities that store or use oil in above-ground and certain below-ground storage tanks.

EPA shares the responsibility of responding to oil spills with the U.S. Coast Guard (USCG). Further, we share the responsibility for prevention and preparedness with USCG and several other federal agencies. The USCG leads the response to spills that occur along the coast of the United States, or in the coastal zone, and EPA leads the response to spills that occur in the

internal United States, or the inland zones. The exact lines between the inland and coastal zones are determined by Regional Response Teams (RRTs) and established by Memoranda of Agreement (MOAs) between regional EPA and USCG offices.

EPA and USCG have a strong relationship and work closely on oil spill response activities regardless of where the spill occurs. As the principal federal response agency for oil spills in the inland zone, EPA assumes the role of Federal On-Scene Coordinator when oil spills occur in inland waters, such as the Yellowstone River. Inland zone oil spills stem from a variety of causal factors including oil pipeline ruptures, tank spills, mishandling, and other sources. The Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation is responsible for regulation and oversight of pipeline safety and my counterpart from PHMSA will discuss that agency's role with respect to pipeline oil spill prevention and response.

EPA either manages the oil spill response or oversees the response efforts of private parties at approximately 300 spills per year where state or local resources are unable to respond sufficiently. After an oil spill occurs, EPA frequently provides technical assistance which may include air and water monitoring support, waste management support, and mobilization of our On-Scene Coordinators (OSCs) and EPA's Special Teams including the Environmental Response Team and the National Decontamination Team to assist with the response. The Special Teams are comprised of highly-skilled environmental experts and utilize modern, sophisticated, and innovative technologies for oil spill response.

THE SILVERTIP PIPELINE INCIDENT AND RESPONSE

At approximately 10:45 PM MDT on Friday, July 1, 2011, a break occurred in a 12-inch pipeline owned by ExxonMobil that resulted in a spill of crude oil into the Yellowstone River approximately 20 miles upstream of Billings, Montana. The current estimate of the amount of oil released remains at 1,000 barrels based on information provided by ExxonMobil, but both PHMSA and the state of Montana are investigating all elements of this incident, including the amount of oil released.

EPA's primary concern is protecting people's health and the environment and EPA will remain on-site to ensure cleanup and removal efforts do just that. As part of this mission and out of an abundance of caution, we have been collecting air, surface water and drinking water samples and began taking soil and sediment samples as soon as these areas were accessible. I will describe these efforts in a moment.

Consistent with the protocols set forward by the National Contingency Plan, EPA is coordinating its response actions with the Department of the Interior, including the Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Indian Affairs, as well as state and local agencies, and the Crow Tribe. We will take all steps necessary to ensure that ExxonMobil, addresses the potential impacts of this spill and is held accountable for relevant response costs, in accordance with the Oil Pollution Act of 1990 and other laws. I would like to point out that the State, and especially Governor Schweitzer, have been integrally involved in the coordinated response to this spill, and have been an important partner in this response. The Governor's leadership in the deployment of several agencies and the State's consultation with experts from other states are representative of the extraordinary effort toward keeping the people of Montana affected by this spill informed about what is happening on the ground.

EPA has been actively engaged in and overseeing the Shoreline Cleanup Assessment Technique (SCAT) activities. SCAT is a process of inspecting impacted areas for the degree of oiling and the types of soil and vegetation that need to be cleaned up in a particular area. There are basically three steps to the SCAT process – assessment, cleanup and evaluation. SCAT reports are developed to drive cleanup activities in the field. Once cleanup crews have completed their activities in previously assessed areas, a second SCAT team will be sent to validate the effectiveness and thoroughness of the cleanup process. The declining floodwaters continue to provide our SCAT teams and cleanup crews increased access to vegetation and shoreline that was previously unavailable to us. This access allows EPA and the state to systematically move down river as we assess and clean up the spill.

EPA continues to hold ExxonMobil accountable for assessment and cleanup. The Agency has issued an official Administrative Order to ExxonMobil, pursuant to section 311(c) of the Clean Water Act, directing the company to take a number of clean-up, removal, and near-term restoration efforts and we continue to carefully and thoroughly review their workplans, data and field activities.

EPA sample collection and oversight, as well as the samples taken or planned by our state, tribal and federal partners, all contribute to our understanding of where oil is present and what compounds remain in the environment. To date, water sampling conducted by EPA between Laurel and Miles City, MT indicates there are no petroleum hydrocarbons above drinking water standards in that region. In addition, our air monitoring continues to show no detections of contaminants associated with the spill in ambient air along the Yellowstone River at levels that would pose a threat to human health. Two compounds (naphthalene and methylene chloride) were detected at concentrations slightly above the levels used to evaluate potential human health

risks. However, naphthalene concentrations are similar to concentrations in the area prior to the spill and methylene chloride is not a compound associated with the oil spill. No other compounds were detected above levels which could pose a risk to human health. The soil and sediment sampling effort was initially complicated by flooding in the area, but as the flood waters have receded, the response team has been able to access the areas and proceed expeditiously. We have been actively developing sampling plans using state of Montana regulatory standards to ensure we are being protective of human health and the environment. These monitoring efforts will continue as we remain focused on taking all necessary steps to protect public health. As additional data are collected, we will have a more comprehensive picture of the potential impacts.

EPA's cleanup activities, which focus on removal of the oil, continue while these samples are being collected. The visual presence of oil in the system is a powerful tool and one used by our SCAT teams as they continue to assess impacts to the riverbank and floodplain. In addition to our collection of real time air samples, EPA also follows strict scientific and quality assurance protocols for the soil or sediment samples that are collected and sent to a certified local laboratory for analysis and validation. Once they receive them, the laboratory analyzes the samples and then does a quality check of the data. EPA then performs another quality check of the data and begins to interpret the data with state and federal partners. During emergency response situations, the agency works to expedite this process as much as possible. As soon as EPA has updated data, we post the information for the public on our website at: www.epa.gov/yellowstoneriverspill/. We have been providing daily updates to the public, and have held community meetings to keep the public informed.

In addition to the SCAT process of assessment, cleanup and evaluation, the cleanup methods being used focus on removal, and vary depending on the media impacted and how much oil is present at a particular location. SCAT teams work to ensure a proper balance between cleanup and minimizing further impacts to ecosystems.

As of July 18, 2011, there are 755 personnel on site and 610 currently in the field engaged in cleanup or sampling activities. Cleanup crews have used 41,338 linear feet of materials such as absorbent booms and 9,000 square feet of materials such as absorbent pads. Crews have recovered 942 barrels of oily liquids and 505 cubic yards of oily solids. Liquid waste is being processed through a permitted refinery wastewater treatment plant and solid waste is being shipped to Bennett, CO. During the pipeline evacuation last weekend, 370 barrels of oily liquid and about 80 barrels of oil were recovered.

NEXT STEPS

In coordination with our federal, state, and local partners, EPA is committed to protecting the community from any adverse environmental effects of the oil spill. In the coming weeks, we will be transitioning from emergency response activities to a SCAT-driven process toward State-determined cleanup standards. EPA will continue monitoring, identifying, and responding to potential public health and environmental concerns.

At this time, I welcome any questions you may have.

Senator BAUCUS. Thank you very much, Mr. Perciasepe.

I have one question. You said SCAT-driven. That raises certain questions. What does SCAT-driven mean?

Mr. PERCIASEPE. Those of us who hike may have a different view, but SCAT is a shoreline assessment process. I think the exact words, I never can precisely remember, but it is a process where you go along the shoreline and actually evaluate what needs to be done and then that gets reported to the cleanup crews, both contractors, but mostly for the responsible party. And that directs the cleanup activities. And that process is ongoing until we are done.

Senator BAUCUS. OK. I was just curious. Thank you.

The Honorable Cynthia Quarterman?

STATEMENT OF HON. CYNTHIA QUARTERMAN, ADMINISTRATOR, PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Ms. QUARTERMAN. Good morning, Chairman Baucus. Thank you for the opportunity to discuss the Pipeline and Hazardous Materials Safety Administration's investigation of and response to the July 1st ExxonMobil Pipeline Company oil spill in Laurel, Montana.

Safety is the No. 1 priority of Secretary LaHood, myself and the employees of PHMSA. We are all committed to reducing safety risks to the public and the environment. More than 2.5 million miles of pipeline delivery energy to homes and businesses across America and our job at PHMSA is to ensure that every mile is safe.

Over the past 20 years, the traditional measures of risk exposure such as population growth and development have been rising. However, the number of significant incidents involving onshore hazardous liquid pipelines has declined 28 percent, with a corresponding decrease of 57 percent of gross barrels spilled.

Despite those overall improvements, I am deeply troubled by this recent oil spill. Secretary LaHood, myself and the employees of PHMSA are always mindful of the substantial effects these incidents can have on the community where a spill occurs. I assure you that PHMSA is vigorously investigating this incident and will continue to do so.

We continue to assist various State and Federal agencies, such as our partner EPA, in assessing the failure's devastating effects to the Yellowstone River and its surrounding communities and helping with cleanup activities.

Due to the high river flows, the ruptured pipe is currently inaccessible for further examination. However, I can assure this Subcommittee that once the pipe becomes accessible PHMSA will complete its investigation as soon as possible. We have contacted all operators with pipeline crossings in the Yellowstone River to verify the condition and operational status of their crossings. We advised them to take appropriate preventive measures, to patrol their pipeline crossings, monitor them more frequently, and coordinate their efforts with other nearby operators.

Before this incident occurred, PHMSA was actively monitoring the Silvertip pipeline and the recent flooding conditions. Due to the onset of heavy flooding starting in May 2011, PHMSA inspectors began monitoring the flow-rate in the Yellowstone River on a daily

basis. In response to the potential risks prior to the spill, we required ExxonMobil to perform a depth-of-cover survey that confirmed the pipeline was buried at least five feet below the riverbank. ExxonMobil later informed us that the south bank was covered on average by 12 feet of cover.

Mr. Chairman, I assure you that PHMSA will remain vigilant in ensuring the safety, reliability and the integrity of all pipelines under its jurisdiction. We will also ensure that the Silvertip pipeline is free of safety and environmental risks before ExxonMobil is granted permission to re-start the line.

PHMSA will investigate this incident fully to ensure that the pipeline is operated safely, that the public is protected, and that any violations of the Federal pipeline safety regulations are swiftly addressed.

Thank you, and I am happy to respond to any questions you might have.

[The prepared statement of Ms. Quarterman follows:]



**UNITED STATES DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION**

**Hearing on
Yellowstone River Oil Spill Oversight
Yellowstone County, Montana**

**Before the
Committee on Environment and Public Works
Subcommittee on Transportation and Infrastructure
United States Senate**

**Written Statement of Cynthia L. Quarterman
Administrator
Pipeline and Hazardous Materials Safety Administration
U.S. Department Of Transportation**

**Expected Delivery 10:00 a.m.
July 20, 2011**

**WRITTEN STATEMENT
OF
CYNTHIA L. QUARTERMAN
ADMINISTRATOR
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES SENATE
July 20, 2011**

Chairman Baucus, Ranking Member Vitter, and distinguished Members of the subcommittee, thank you for the opportunity to discuss the Pipeline and Hazardous Materials Safety Administration (PHMSA)'s response to the July 1, 2011 ExxonMobil Pipeline Company (ExxonMobil) oil spill in Laurel, Montana.

Safety is the number one priority of Secretary Ray LaHood, myself, and the employees of PHMSA. We are all strongly committed to reducing safety risks to the public and environment. More than 2.5 million miles of pipelines deliver energy to homes and businesses across America, and our job at PHMSA is to ensure that every mile is safe. Of these 2.5 million miles, PHMSA oversees 174,000 miles of hazardous liquid pipelines. Over the past 20 years, the traditional measures of risk exposure such as population growth and development have been rising. However, at the same time, the number of significant incidents involving onshore hazardous liquid pipelines has declined 28%, with a corresponding decrease of 57% of gross barrels spilled.

Despite those recent improvements in performance, I am certainly troubled by this recent oil spill. Secretary LaHood, myself, and the employees of PHMSA are always mindful of the substantial effects these incidents can have on a community where a spill occurs. As identified during PHMSA's preliminary failure investigation, ExxonMobil personnel reported to the National Response Center that the spill occurred on the Silvertip pipeline on Friday, July 1, at approximately 10:40 p.m. MDT. An estimated 1,000 barrels of oil were released. That initial estimate was also reported by ExxonMobil and is subject to further review once more information becomes available. At 10:47 p.m. MDT, ExxonMobil shut down the pumps at Silvertip station. At approximately 10:57 p.m., the company closed the Laurel block valve

located downstream of the failure site. Thereafter, ExxonMobil reopened the block valve at 11:07 p.m. and closed it at 11:28 p.m. MDT. ExxonMobil closed the block valve located upstream of the failure site at approximately 11:36 p.m. MDT. This valve shut down the flow of product into the Yellowstone River. These valve operations will be examined in detail during the PHMSA investigation of the incident. ExxonMobil reported the failure to the National Response Center on July 2, at approximately 12:19 a.m. MDT.

Mr. Chairman, Members of the subcommittee, I assure you that PHMSA is vigorously investigating this incident and will continue to do so. PHMSA personnel were on the scene and directly engaged in the response efforts within 12 hours of notification of the spill. As part of the on-scene Unified Command Center, PHMSA assisted various State and Federal agencies in assessing the failure's devastating affects to the Yellowstone River and its surrounding communities and overseeing clean-up activities. The Environmental Protection Agency is coordinating its response actions with the Department of the Interior, Fish and Wildlife Service and state and local agencies and will take whatever steps are necessary to ensure ExxonMobil, as the responsible party, addresses all potential impacts of this spill. In addition, PHMSA is responsible for determining the cause of the pipeline failure and has confirmed the shutdown of the Silvertip pipeline, verified the isolation of the other major water crossings, gathered information from ExxonMobil's control center in Houston, Texas, and initiated an onsite failure investigation. On July 3, PHMSA contacted all pipeline operators with pipeline crossings in the Yellowstone River to verify the condition and operational status of their crossings. We advised them to take appropriate preventive measures by patrolling their pipeline crossings, more frequently monitoring them, and coordinating their efforts with other nearby operators. On July 5, the first business day after the incident, PHMSA issued a Corrective Action Order requiring ExxonMobil to directionally drill the Yellowstone River crossing and assess the risk of other major Silvertip pipeline water crossings. We continue to have staff on scene participating in the incident command, assisting state and local agencies, and carrying out our investigation. Unfortunately, due to the high river flows, the ruptured pipe is currently inaccessible for further examination at this time. Therefore, PHMSA has been unable to complete its failure investigation. However, I can assure this subcommittee that once the failed pipe becomes accessible, PHMSA will complete this investigation as soon as possible.

Before the incident occurred, PHMSA was actively monitoring the Silvertip pipeline and the recent flooding conditions brought about by the rising river flows. In October 2010, PHMSA and the City of Laurel Public Works Department jointly reviewed rising river flow and erosion near the south bank of the Yellowstone River crossing. Both PHMSA and the City of Laurel were concerned with the risks to the Silvertip pipeline due to high runoff and possible river bottom scour and erosion of the river bank. In response to these risks, ExxonMobil performed a depth-of-cover survey that was completed on December 1, 2010. That depth-of-cover survey confirmed at least five feet of cover over the pipeline for the riverbed, which was within the 4 feet depth-of-cover requirement in the pipeline safety regulations. Due to the onset of heavy flooding, starting in May 2011, PHMSA inspectors began monitoring the flow rates in the Yellowstone River on a daily basis and visually observing the conditions of the pipeline crossing on a biweekly basis. On June 1, PHMSA requested that ExxonMobil again confirm the current depth-of-cover for the south bank. ExxonMobil reported that there was at least 12 feet of cover for the south bank. In June 2011, PHMSA also alerted pipeline operators in the vicinity of the upper Missouri River and its tributaries of the risk of high flood waters and advised those operators to take appropriate preventive measures.

Historically, PHMSA has conducted routine inspections on the Silvertip pipeline for many years. In July 2009, the agency conducted a standard inspection of the Silvertip line. PHMSA issued three enforcement actions as a result of this inspection. However, none of these alleged violations involved the Yellowstone River crossing. Two of the cases were closed after ExxonMobil completed all required actions. The third case is still open, but ExxonMobil took appropriate compliance action after the inspection occurred and before the Notice was issued. As recently as June 6-10, 2011, PHMSA personnel performed an integrity management field inspection on the Silvertip pipeline. As a part of that inspection, PHMSA reviewed ExxonMobil's 2009 internal inspection (ILI) raw data for this particular pipeline. No regulatory violations were found at that time. The ILI data did show one pipeline anomaly at the river crossing, however, that anomaly was below the required repair conditions under the pipeline safety regulations. Mr. Chairman, I assure you that PHMSA will remain vigilant in ensuring the safety, reliability and the integrity of all pipelines under its jurisdiction. We will also ensure that the Silvertip pipeline is free of safety and environmental risks before ExxonMobil is granted permission to restart the line. PHMSA will investigate this incident fully to ensure that the line

is operated safely, that the public is protected, and that any potential violations of the federal pipeline safety regulations are swiftly addressed.

Thank you and I am happy to respond to your questions.

Senator BAUCUS. OK. I would like to basically start with you, Mr. Perciasepe, and just some basic questions I have. Obviously, the degree to which the cleanup has been accomplished, and before I get to that, the extent of the damages. If you could just tell us just what the damages were at the spill. It is somewhat obvious, but how much damage is still left, either in terms of oil, contaminated ground, air pollution, homes where there is still oil. Just damage in any sense of the term that one would ordinarily think of at this point.

And then second, when do you think it will all be totally cleaned up?

Mr. PERCIASEPE. Let me try a couple of observations based on those questions. We have set in our order a plan that we would hope that we would be done by the fall with the cleanup. But that is going to be highly dependent on a lot of variables, including those SCAT teams, which I want to make sure I tell you what the actual SCAT stands for. It is shoreline cleanup assessment technique, which are groups of people that will go up and down the shoreline and continue to assess the damage, and then sometimes you have to come back again once things are revealed.

We also know that the conditions from the flooding, we are starting to see as the water recedes some of the soil that has been oiled along the shoreline and we are out there monitoring and sampling that soil. We are also seeing, as I mentioned in my testimony, some oil that has accumulated under some of the debris piles that are associated also with flooding.

So we are in the process of assessing those with our partners, including the State, and we will be aiming toward the State-defined cleanup standards that they are involved with helping us define as we go along.

Also, on some of the ranch and agricultural lands along the river that may have been oiled, soil that may have been oiled, we are also bringing the Department of Agriculture in to work with us and to help us assess what guidelines and cleanup standards might be appropriate for some of those areas that did get oiled.

Senator BAUCUS. So what agencies, what government determines what standards? You mentioned the State has standards, then you mentioned USDA. It sounds a little confusing.

Mr. PERCIASEPE. Well, USDA, we are bringing them in for their technical expertise, but we will go with what the State determines is a cleanup standard that they would like to see, and will continue the SCAT process until we get to those.

Senator BAUCUS. Do you work with the State on that standard?

Mr. PERCIASEPE. Yes.

Senator BAUCUS. And do you know what the State standard is?

Mr. PERCIASEPE. Well, it will depend on whether it is soil or water or sheen on the water. Under the Clean Water Act, we want to remove the oil and oil products so that there is no more visible sheen or oil in the environment. The State may have some additional cleanup standards that they want us to follow and that we will want to incorporate. So I don't want to say it is one or the other.

On the Clean Water Act, we have certain responsibilities, but we also have a responsibility to work with our partner at the State.

Senator BAUCUS. That is what I was going to ask. So what is the Federal responsibility under the Clean Water Act? What is it?

Mr. PERCIASEPE. Under the Clean Water Act, which sets up the oil pollution control program, we are responsible for directing the cleanup activities that are underway now.

Senator BAUCUS. I don't want to be too technical here, but are there Federal standards under the Clean Water Act with respect to oil spills? Are there cleanup standards?

Mr. PERCIASEPE. Well, there are water quality standards that are set for the river that we have to get back to.

Senator BAUCUS. Right.

Mr. PERCIASEPE. Those standards are also, I might add, Mr. Chairman, are standards that the State sets for the water quality standards under the Clean Water Act. Under cleaning up oil, there are a number of observable approaches you take, including removal of the visible oil and the sheening on the water.

Senator BAUCUS. Right. I guess the question is, we need to know what we are dealing with here. That is, what is the standard? People need to know what the standard is.

Mr. PERCIASEPE. Well, you have the drinking water standard for drinking water.

Senator BAUCUS. I know. I am just talking about the average guy who has a place along the river and he is going to want to know and he should know what is the standard by which EPA, the State, Exxon, all related here, will clean my place up to. So how is he supposed to know?

Mr. PERCIASEPE. Well, it will be water quality standards of the State of Montana is what we will make sure we achieve.

Senator BAUCUS. Is that known what that is?

Mr. PERCIASEPE. I don't have it here in front of me, but, yes, it is known.

Senator BAUCUS. It should be known.

Mr. PERCIASEPE. And it will be. And if it isn't known, we will certainly make sure it is.

Senator BAUCUS. Can I ask you to do that, please? Just work with the State and do all you have to do to make sure the people affected by this spill know what the standard is to which damage is supposed to be cleaned up to. Everybody needs to know what the standard is. It sounds like we are not quite sure what the standard is at this point.

Mr. PERCIASEPE. Well, first of all, you are going to want the agricultural land to be able to be used for its agricultural purposes. That is why we are having some technical advice from the USDA. We have water quality standards that are set by the State and we have drinking water standards that are set by EPA. And we will want to make sure all of those components are taken into account and used by the SCAT teams for the final cleanup.

Senator BAUCUS. Right. I understand that. You are basically the lead agency, aren't you, the EPA?

Mr. PERCIASEPE. That is correct, for the cleanup.

Senator BAUCUS. The cleanup, and I am talking about the cleanup here. So could you take charge of putting these standards together and incorporate it into something that is easily understood by people?

Mr. PERCIASEPE. Yes.

Senator BAUCUS. For example, the farmers and the ranchers. You are going to have to talk to the USDA, I suppose, and find out what they can help you with.

Mr. PERCIASEPE. Yes. We will be responsible for making sure of that. I want to say that we must do this in partnership with the State because they have a very important and primary role here.

Senator BAUCUS. Yes, that is clear. I know I have sat many times in the intersection between the State and the Feds and the Clean Water Act.

Mr. PERCIASEPE. And so we would be, as we go through that process of looking at the river water and any drinking water that may have been impacted down the line there, we are going to be circling back with those requirements for cleanup to the responsible party.

Senator BAUCUS. I understand that there is still oil odor in some places. Why is that and how can that be remedied?

Mr. PERCIASEPE. Our air quality monitoring, we have not seen anything in the air that would be from the oil that would be of any immediate health concern. In fact, the night when most of the volatile organic matter was coming off of the oil, things like benzene perhaps, working with the local fire departments and health departments, there were evacuations of people until that subsided.

But it is important to note, and this is hard to note sometimes, but the human nose is actually more sensitive than the monitoring devices. In other words, we can smell some of these organic chemicals at very, very low levels, even below a level that would cause health concerns.

Senator BAUCUS. You ought to have dogs. They are better than people.

Mr. PERCIASEPE. So that doesn't mean that we are not monitoring to make sure that those levels are not at a higher level of health concern. And of course, we don't want those odors to be there in the long haul. But the point I am trying to make, it is possible for people to continue to smell some of the oil odors even though the levels are not showing up on our instruments.

Senator BAUCUS. Well, people smell it irrespective of what shows up on your monitors and it is distasteful. It is unpleasant.

Mr. PERCIASEPE. That's right. That needs to be part of the remediation.

Senator BAUCUS. Smelling the odor is still unpleasant and that will be part of what is potentially harmful.

Mr. PERCIASEPE. Well, I would agree that people could be adversely affected by odors that are not what they are normally subjected to. But removing the oil so that the odors go away is part of the process here. But we are also trying to monitor, Senator, in the ambient air to make sure that they are not at the level where we are looking at a long-term cancer risk or anything of that nature.

Senator BAUCUS. Right. Do you know the type of oil that was in the pipeline that spilled? Do you know what was in it?

Mr. PERCIASEPE. Well, it is generally well known oil. It is from usually a mix at this refinery from oil from Wyoming or in some cases a mix of Canada oil sands oil. That general mix is generally

well known. But we have specific samples of the soil at the lab, as does the State and others, and we are waiting for those lab results which will give us a more precise thing.

But we generally know the kind of oil this is and don't expect anything extraordinary when we see those results, but they will be confirming the content. As soon as we have those results from the lab, which I am expecting any day now, we will post that on our website and present it in our public meetings that we have out there.

Senator BAUCUS. Great. For the record, could you send the results of those tests to this Committee, please?

Mr. PERCIASEPE. Yes, yes. Those results will be made public as soon as we get them.

Senator BAUCUS. OK.

The big question a lot of landowners are going to have, who do they trust? How do they know what this stuff is? How do they know when this is going to be cleaned up? People don't want to be left hanging. They want to know if there is an end date and so forth. And I understand that you have ordered ExxonMobil to remediate contaminated areas by August 18th. Is that correct? And remediate all areas by September 9th.

Mr. PERCIASEPE. Right.

Senator BAUCUS. And so what does that mean? Will that be total remediation? Will that be partial? What does that mean?

Mr. PERCIASEPE. Well, we want the full remediation to the kinds of standards we were talking about earlier. We will get to everyplace that has oil on it as we learn of them or find them through our SCAT teams.

And I want to say that order was done within days of the spill to put fire in everybody's belly on a schedule. But if we determine that more time is needed for cleanup and we are not done, we will extend that to keep ExxonMobil working on the cleanup.

And so those dates are out there. We are requiring plans to be made to cover all of that during those time periods. And we still think that is possible, but the dynamic of the floodwaters and what we find as those recede could extend those dates.

Senator BAUCUS. Is the standard 100 percent clean? What is the standard basically? I am a landowner. Can I be assured my place is going to be back where it was, period?

Mr. PERCIASEPE. That would be the objective, Senator.

Senator BAUCUS. To have no impact from the oil on the land where the oil has been deposited? And one of the governing factors there will be making sure that land could be used for what it was used before the spill. So it is your understanding the use of the land or what? Some of it is for grazing. Some of it is used for recreation and some of it is used for crops. What is your understanding?

Mr. PERCIASEPE. Yes. There were crops. There was grazing land. There may have been recreation land. Obviously, some of it is in the Billings more urbanized area. All of those previous uses and existing uses will have to be protected and enabled after the cleanup.

Senator BAUCUS. OK. How much is left to be cleaned up, what percent?

Mr. PERCIASEPE. I do not know the answer to that, again, because of the floodwaters and the fact that we are waiting for some

of those floodwaters to recede to see what is under there. And as I mentioned, we are discovering some of the oil has accumulated under some of the snags and debris piles. It is hard to say for sure how much more might still be out there.

But again, we are not going to rest until we find it all and direct the responsible party to clean it up.

Senator BAUCUS. So when do you think you will know how much more work you have to do? By what date?

Mr. PERCIASEPE. We are hoping that we can clean it up in the timeframe that was in the order, and that would be what we would aim for at this time. But if we discover more than we currently know, and we need the responsible party to have more time to clean it up, we will amend the order to give more time to make sure that we don't leave anything behind.

Senator BAUCUS. I appreciate that. Could you keep this Committee informed if there are any changes that might occur?

Mr. PERCIASEPE. Yes, we will. And we are going to continue to have daily briefings. We are going to continue to have public meetings. As we get more data, we will put it not only on our website, we will report it at public meetings in the area there. And if there is a need to extend the time for cleanup because of what we discover as the water recede, that will be a clear public discussion and we will definitely keep this Committee notified of that.

Senator BAUCUS. Do you have enough resources?

Mr. PERCIASEPE. I think we do, yes. I think what we have here is, and we have been adding as we thought we needed it and we ramped up pretty quickly. And as I said, there are over 700 people now working on this.

The issue is going to be the dynamic between the floodwaters receding and our discovery process through that SCAT teaming that I mentioned. And time may be the only other resource we need a little bit more of than we put in the order. But I think we are adequately personed up right now.

Senator BAUCUS. Before I turn to Mr. Vitter, a few questions about your relationship with ExxonMobil. How much of the work are they doing? It is my understanding they have responsibility. It is my understanding that under the law, ExxonMobil has responsibility to pay for the cleanup. If you could just tell me about the interaction between EPA and Exxon as you are working to remediate here.

Mr. PERCIASEPE. Well, the Clean Water Act sets up a process where there is a responsible party. ExxonMobil has clearly indicated that they are the responsible party. There has been no arguing about that. They have put the resources in it. The majority of the resources that are onsite working are directly funded by ExxonMobil.

We have a number of EPA employees, as well as EPA contractors augmenting that and verifying the work. All of that, plus State resources or tribal resources, and we are working with the tribes as well, all of those resources will be reimbursed when we get to the end of the process here.

There has been some funding put forward already from our oil cleanup fund, and again the responsible party will have to reimburse that when we see what the final bill is.

Senator BAUCUS. Thank you.

I am honored, we are honored to be joined by Senator Vitter. Senator, if you wish to make a statement?

Senator VITTER. Thank you, Mr. Chairman. Actually, I am going to wait until the second panel and have some questions there, but thank you.

Senator BAUCUS. You bet.

A couple of questions of you, Ms. Quarterman. Basically, if you could just go through a little bit of chronology here. It is my understanding that last, I don't know what it was, August or sometime that the people of Laurel were a little concerned about the integrity of the pipeline, about the river potentially rising. Well, not August, but earlier on before we had the incident. And they consulted with EPA, consulted with the State, a little concerned about the integrity of the pipeline, and maybe even ExxonMobil, too.

And then, as I read the history, there was a review of the pipeline. PHMSA talked to Exxon. Exxon conducted a study and it turned out that basically the pipeline was OK. Then, we had this incident.

But if you could, from your perspective, just walk us through the chronology of what happened.

Ms. QUARTERMAN. Absolutely. About October 2010, we were approached by the city of Laurel, I believe their Public Works Department. They contacted our inspector. I think they had been trying to find among the government agencies whose responsibility it was for pipeline safety.

And he contacted our office and said that they were concerned about the Silvertip pipeline. I think their concerns primarily related to the south side of the pipeline crossing. At that point, we met with them and with Exxon and we required Exxon to do a depth-of-cover survey to determine the depth of the pipeline and how much earth was on top of it.

Senator BAUCUS. That was under the river?

Ms. QUARTERMAN. Under the water, correct.

They came back to us and told us that they had at least five feet of cover on the part of the pipeline that was on the riverbed. That was sufficient to meet the four-feet construction requirements in the pipeline safety regs.

The level of the river continued to rise. On about May 25th, we were contacted again by the city saying the river is very high. We still are concerned about this pipeline. Again, we contacted Exxon to ask them specifically about the south bank of the river crossing. The concern there was that if the river were to rise to a certain level, it would get into what I believe is Riverside Park. And there, the pipeline could potentially be exposed completely if the river were to rise high enough.

So we contacted Exxon about and asked them about that south bank of the river and we were informed that they had on average 12 feet of cover on top of the pipeline on the south river crossing.

At that point, our inspector began to go out there on a daily basis to observe the pipeline river crossing just because the river waters were very high.

Senator BAUCUS. And when was this? About what date?

Mr. QUARTERMAN. I believe this was May 31st. And at the same time, we began to monitor all the Montana pipelines. We contacted all the operators associated with river crossings in that area to ask them to pay special attention because the waters were very high.

So that continued on. And around June, the city was again contacting, I believe, Exxon. And so we decided to go into Exxon and look further at their integrity management runs, to do field verification. They had done an in-line inspection of this line in 2004 and 2009. So our folks went in and looked at the raw data for that in-line inspection in 2009 to see if there were any causes for concern in terms of anomalies on the pipeline at the river crossing.

As a result of that inspection, I think they found one anomaly in 2009. However, the size of the anomaly was below our threshold for required fixing at that time. And the 2004 inspection run also showed the same anomaly. So there hadn't been any growth between 2004 and 2009, so they felt comfortable that in terms of the integrity of the line that there wasn't an issue there.

Senator BAUCUS. But just cutting to the quick here, we don't have a lot of time, something went wrong.

Ms. QUARTERMAN. Absolutely.

Senator BAUCUS. At one point, both ExxonMobil and PHMSA thought everything was OK and everything wasn't OK. The line ruptured. Lots of oil spilled.

So what went wrong? What went wrong with the company? And what went wrong with PHMSA? Because you both agree, yes, everything is OK and it wasn't.

Ms. QUARTERMAN. Well, you know, we are in the middle of an investigation of what happened on the pipeline. We do not operate the pipeline on a day-to-day basis. We came in to assist the State with their concerns about the pipeline. Ultimately, the operator is responsible for operating its pipeline. They can't rely on us to say yes or no, this is a good idea to continue to operate the pipeline.

Senator BAUCUS. What is your role then? If the company could do what it wants to do, what is your role?

Ms. QUARTERMAN. Our role is to oversee the decisions that they make. The only instance in which we can essentially tell an operator to stop operating its pipeline is if we see an imminent hazard. And I would have to say in this instance with the foresight of 20/20, obviously, the pipeline should have been shut down at the time. And given the data was available, I don't think that our pipeline inspector thought that he had the authority to order Exxon to close the pipeline.

Senator BAUCUS. When you look at pipeline integrity and crossings, do you look at hydraulics and the riverbed of specific rivers? I mean, every river is different, and the riverbed of every river is different. Some are gravelly, some are clay, some might be granite. Who knows? And the flood hydraulics of every river are different.

So what do you do? Do you just take willy nilly whatever the company says to you? If the company says, well, it looks OK to us; looks like we have five-foot cover here. Looks OK to us.

Unless you see an imminent danger, is that just it? Or do you ask them about hydraulics? Do you ask them about the riverbed and how it varies, this river compared with other rivers?

Ms. QUARTERMAN. That will be the subject of our investigations. We will have to go. We have obviously begun to interview Exxon and gone to its control room. And we will go to its integrity management plan, not just the data, but the plan itself. Pursuant to those regulations, the operator has a responsibility to——

Senator BAUCUS. It sounds like PHMSA on its own doesn't do any of that, what I just suggested. That is, look at the specifics of the specific river.

Ms. QUARTERMAN. Our responsibility is to review the operating and maintenance procedures and the integrity management plan for the operators. It is the operator's responsibility to operate its pipeline safely. And pursuant to our regulations, they are supposed to put in place a continual process for improving their pipeline and ensuring, evaluating it, assessing the conditions and maintaining the integrity of the pipeline, including those associated with flooding and other climatic issues.

Senator BAUCUS. Right. Do you have specific requirements as to the integrity of pipeline plans? That is, specific requirements as to what should be contained in that integrity plan?

Ms. QUARTERMAN. Yes, we have requirements.

Senator BAUCUS. Could you give me examples of one or two or three?

Ms. QUARTERMAN. Well, every operator is supposed to at the beginning perform a risk assessment of its pipeline system. So at every place where it crosses a river or where a soil changes, it should know the conditions of that line in terms of whether it is particularly corrosive so it can determine what sort of testing should be done pursuant to the integrity management plan. It should know the river crossings and know whether or not it is one that is subject to frequent flooding, and make a determination as to whether they need to go beyond what it is in the minimum requirements in the regulations.

So we require them to do a continual improvement of their own systems. I mean, we have certain minimum requirements in our regs, but it doesn't mean that is the only thing an operator needs to do. They really need to be active on their own pipeline in ensuring that, especially in a high-consequence area like this, they set forth a plan that addresses all of the concerns.

Senator BAUCUS. How accurate are depth-of-cover surveys?

Ms. QUARTERMAN. I don't know that. We will have to get that information for you.

Senator BAUCUS. Do you just generally have an idea? You are the outfit. You are the agency. You are PHMSA. I mean, if you asked Exxon to do a little investigation and part of that is your depth of cover, and they come back and say depth of cover is OK. My question is how accurate are depth-of-cover surveys?

It gets to an earlier question. Do you look at specific rivers, the hydrology of a specific river? Of a riverbed content of a specific river? All this gets to the accuracy of a depth-of-cover survey.

Ms. QUARTERMAN. I have heard plus-or-minus six inches, but I would not commit to that. I would want someone to review that and respond.

Senator BAUCUS. To be honest, ma'am, it sounds like you are not really on top of this. I mean, that is my impression I am getting

so far and I urge you to get more on top of it. I have to be candid. That is the impression I am getting.

Could you tell me a little bit about the difference between trenches and drilling? And when one is more appropriate compared to the other?

Ms. QUARTERMAN. This particular pipeline was trenched or put in with an open-cut technology which was the prevalent technology in use until I would say the early to mid-1990's. More recently, the horizontal drilling technology is quite frequently used for river crossings. You would, rather than stop the waterway and trench beneath and put the pipeline in, you would actually go underneath the river from one side to the other, so it would be much deeper.

Senator BAUCUS. When is it more appropriate to drill as opposed to trench?

Ms. QUARTERMAN. We don't have set standards in our regulations at this point in time. One of the things that we have done very recently is to put in place, we have opened up a set of comments for our Hazardous Liquid Integrity Management Program. And essentially everything is on the table at this point.

One of the things that happens at the end of our investigation will be that in addition to reporting on what happened in this particular instance, we will also make a recommendation about changes that need to be made to the pipeline safety laws.

Senator BAUCUS. Well, obviously, when do you anticipate concluding your investigation as to the cause of what happened in this case?

Ms. QUARTERMAN. At this point, we have not been able to get the pipe out of the river. We are expecting perhaps in August that the waters will be low enough so that it can be removed. At that point, it will take probably two or 3 months for us to get the results and conclude our investigation.

Senator BAUCUS. So you probably won't know until October. Is that right?

Ms. QUARTERMAN. That is probably right. If you compare it to some other investigations, I think it is probably right.

Senator BAUCUS. Well, I urge you to devote a lot of attention to finding out what went wrong as quickly as you can and not let this drag out. And report to this Committee your findings. Send us a copy of the report.

Ms. QUARTERMAN. Absolutely.

Senator BAUCUS. OK. I am just not sure, frankly, ma'am, that I am satisfied that your agency is on top of things here.

Ms. QUARTERMAN. Well, let me assure you that our agency is very aggressively looking at pipeline safety issues and it has been a period during which there have been a number of significant incidents after I would say almost a decade of few incidents. And we are looking diligently at all aspects of the pipeline safety program.

As I mentioned, with respect to hazardous liquids, we began a review of those rules last year. We are in the middle of a rule-making process on that. With respect to gas transmission pipelines, we are about to begin a rulemaking associated with those pipelines. At the beginning of the Administration, we put out a rule with respect to the distribution pipelines. We just expedited the application of the control room management rule that went into effect.

Senator BAUCUS. All I know is in this case the company made a mistake. It was wrong about the integrity of the pipeline. Your agency made a mistake. It was wrong about the integrity of the pipeline. And it is our job to do all we can to make sure that there is no reoccurrence.

Ms. QUARTERMAN. I agree that we don't want a reoccurrence.

Senator BAUCUS. And I am urging you in your report to tell us what needs to be done to minimize to close to the probability of zero any reoccurrence.

Ms. QUARTERMAN. Yes, that is our goal, zero.

Senator BAUCUS. OK, and I look forward to it.

Ms. QUARTERMAN. Thank you.

Senator BAUCUS. To seeing that report. Thank you very much.

Senator Vitter, I guess you have no questions?

Thank you both very much for taking the time to come and talk to us. We deeply appreciate it.

Mr. PERCIASEPE. Thank you, Mr. Chairman.

Senator BAUCUS. Thank you.

OK, our next panel, we have three: Mr. Scott McBurney, who lives on the Yellowstone; Hon. Bill Kennedy, County Commissioner, Yellowstone County; and Gary Pruessing, President, ExxonMobil Pipeline Company.

OK. I will begin with you, Mr. Kennedy, Bill Kennedy, County Commissioner who serves Yellowstone County with utmost distinction for a good number of years; always reelected.

Bill?

**STATEMENT OF HON. BILL KENNEDY, COMMISSIONER,
DISTRICT THREE, YELLOWSTONE COUNTY, MONTANA**

Mr. KENNEDY. Thank you, Senator Baucus, and thank you for inviting me to the Committee for insight on the Exxon oil spill in the Yellowstone River near Laurel, Montana, located in Yellowstone County.

I have some prepared statements and I would like to, after listening to the statements earlier, I would like to make a couple of comments on that also.

I am Bill Kennedy, a Yellowstone County Commissioner and the pipeline crosses Yellowstone River located in my county. We are located about 140 miles from Yellowstone Park and we had a lot of inquiries about was there a spill in Yellowstone Park. It was a spill in the Yellowstone River. We are 140 miles to the east. We are about 300 miles to the confluence of the Yellowstone River and the Missouri River. So as you can see, we are in the mid-area, but the Yellowstone River flows into the Missouri then on to the Mississippi.

And Senator Vitter, that ends up down in Louisiana.

Since May, we have had flooding, and in June we received a Presidential emergency declaration on our county and statewide. The amount of snowpack is way above normal and the Yellowstone River has been higher since May. This gives you a background for the July 1 oil break of the ExxonMobil pipeline.

I have been monitoring the flooding on the Yellowstone River almost daily since the river hit the flood stages. Our disaster and emergency service director was out there and we have been moni-

toring the height of the river, and actually it has been high water since May and we are still in the high water stages even though we have dropped. We are still in high water stages.

Late Friday night on July 1, our Disaster and Emergency Service Director Duane Winslow opened the Emergency Operations Center. The Laurel Volunteer Fire Department, along with the Yellowstone sheriff's deputies, evacuated approximately 125 people from their homes along the Yellowstone River. The air was heavy with the smell of the crude oil. The immediate danger to the public was not known at the time, but all emergency personnel were notified, and that is very important in our county and especially all the counties below us that feed out of the river.

Approximately 42,000 gallons of oil had leaked into the Yellowstone River. Emergency personnel and Exxon employees responded immediately. Within the next hour, pipeline valves had been closed, shutting down much of the oil.

We live in the west and water is very important for us, and safe drinking water, irrigating our crops, watering livestock, and tourism on our Montana rivers are very important to us. But public safety and cleanup are our top priorities on this project. This is a big deal and all parties hit the ground running.

At 6:30 a.m. on Saturday morning, I was out there on the river and then we called a press conference that morning. Immediately, about 8 to 8:30, we called the press in to let the public know that the drinking water was safe. The city of Billings municipality, the city of Laurel is above where the break was. The city of Billings, the Lockwood intake, all of them were shut down early in the wee hours of the morning on that Saturday morning. Exxon was already on board, in addition to our local disaster and emergency personnel. EPA and the State DEQ were en route and the response was immediate, and the July 4th weekend became a real-life disaster in our county.

The cleanup process was underway, but at this time it was very evident that the local government was informed, but not involved in the decisions and the next steps of what was going on. EPA took charge, but samples and results were slow to come, taking from four to 7 days. And as you heard earlier, they are still waiting for the sample results.

The public, especially the landowners, were upset over the unknown, and by day three I asked to be at the table on the decisions and the plan for the cleanup. It was agreed that the county would sit on the board, and we were briefed, but sampling and cleanup were still left to the EPA and DEQ.

Exxon did take our suggestions. We provided mapping and the landowners' names and they contacted our residents. I asked every agency to have a live person on the phone and face-to-face meetings with the public. Exxon had briefings daily, then EPA had daily briefings. The State set up a local office and took their own samples, but we all need to work together, and that is very, very important on this.

We need to have a strategy to keep local government officials on board and in decisionmaking positions. We know the residents, the geography and the companies in our community. This spill opened our eyes to what a leak can do and how our emergency planning

works. We also know now that we need to be included on decision on cleanup and future safety planning for residents. We have five other pipelines also in this vicinity under the Yellowstone River.

The pipelines are safer than trucking and rail and keep good-paying jobs in our community. We have three refineries and have always had expectations that DOT check and assured everything was good. This is a wake-up call for our county to be more involved.

Some positive outcomes that came is we are now invited to participate in the daily briefings on the status of the cleanup. We actually get emails every day from EPA. Local landowners have face-to-face meetings with Exxon and the agencies, which we have insisted on and they do have that back-and-forth dialog.

Local elected officials are included in the briefings. Exxon and EPA have held public meetings, which came from our insistence. Local work force is being trained for hazardous cleanup and we have 125 people in the local community now that are being trained. The public now knows what to expect from a public response system, which is very, very important.

We have assurances from Exxon that the property will be cleaned up and put back to the way it was before the leak. And we have independent water, air and soil monitoring and sampling through the State and EPA to confirm these assurances.

But can we do better? Publicity will take a while to explain to agricultural producers and tourists that the Yellowstone River is safe to irrigate their crops and water livestock and that tourists can still float and fish on the Yellowstone River.

Communication between all parties took a few days to be seamless and I will tell you, we are still working on that and it needs to be from the very onset. Local government officials are still not openly included in decisions. And as you saw with DOT and EPA today, never once did you hear in their testimony that they mentioned local government officials. They have mentioned they work with the State. They work with other Federal agencies, but they have never worked with the local elected officials.

The city of Laurel was brought up because they saw a problem. The ongoing dialog with the city of Laurel, with Yellowstone County, I don't think Yellowstone County was even mentioned in the dialog today.

So as I can say, local officials are still not openly included. I would say that all parties seem to be working together in the community. I was happy today to hear what the amount of time for the cleanup is going to be. I hadn't had that date at all. And the one thing that we have not known in the county is what are the rules and what standards are we going after. We have also involved our extension agent who works with all the agricultural landowners and we asked him to get involved.

I spent the last week with county commissioners from across the County at the National Association of Counties. And Senator Vitter, I was with your Louisiana county commissioners. I was with the Florida county commissioners and county commissioners along the Gulf States as they were talking about the oil cleanup.

The one thing that the National Association of Counties and also the county commissioners in the Gulf States and everyone that has

had oil spills have talked about is we need policies to strengthen local government involvement under the Oil Pollution Act. We believe that the Federal agencies that do oversee OPA must be required to consult and coordinate with local governments in environmental protection, oil spill contingency planning, training and implementation of the processes.

That is needed. That is one thing that we have seen from this spill. We have been working with our local agency and with our local landowners, but it seems like we are the last ones to get the call and to sit down and talk about it.

And when everybody leaves town and it is all over, the local elected officials are still there.

Thank you.

[The prepared statement of Mr. Kennedy follows:]

Testimony of William Kennedy
County Commissioner
Yellowstone County, Montana
Before the Environment and Public Works Committee
Hearing on "Yellowstone River Oil Spill Oversight"
July 20, 2011

Thank you Madam Chairman Boxer, Vice-Chair Inhofe, and Members of the Committee. Thank you, Senator Max Baucus, for inviting me to give the committee insight on the Exxon oil spill in the Yellowstone River near Laurel, Montana, located in Yellowstone County.

I am Bill Kennedy, a Yellowstone County Commissioner, and the pipeline crosses the Yellowstone River located in my county. We are located about 140 miles from Yellowstone Park and about 300 miles to the confluence of the Yellowstone River into the Missouri River.

Since May we have had flooding and in June we received a Presidential Emergency Declaration on our county and statewide. The amount of snowpack is way above normal and the Yellowstone River has been higher since May. This gives you the background setting up the stage for the July 1st oil break of the ExxonMobil pipeline. I have been monitoring the flooding on the Yellowstone River almost daily since the river hit floodstage.

Late Friday night on July 1st, our Disaster and Emergency Services Director, Duane Winslow, opened the Emergency Operations Center. The Laurel Volunteer Fire Department, along with Yellowstone County Sheriff's deputies, evacuated approximately 125 people from their homes along the Yellowstone River.

The air was heavy with the smell of crude oil. The immediate danger to the public was not known at the time, but all emergency personnel were notified. Approximately 42,000 gallons of oil had leaked into the Yellowstone River. Emergency personnel and Exxon employees responded immediately and within the next hour pipeline valves had been closed, shutting down the flow of oil. This quick response allowed us to prevent more oil flowing into the Yellowstone River.

We live in the West and water is very important to us for safe drinking water, irrigating our crops, watering livestock and tourism on our Montana rivers. Public safety and cleanup were our top priorities. This is a big deal and all parties hit the ground running.

At 6:30 am Saturday morning we called a press conference to inform the public and immediately let the public know our drinking water was safe and our drinking water intakes were shutdown.

Exxon was already on board, in addition to our local Disaster and Emergency personnel. EPA and State DEQ were enroute. The response was immediate and the July 4th weekend became a real life disaster response in our county.

The cleanup process was underway, but at this time it was very evident that the local government was informed but not involved in decisions involving the next steps.

EPA took charge, but samples and results were slow to come, taking from 4 to 7 days. We were told we could tell the public there is no imminent danger but that verifying results would take days. The public, especially the landowners, were upset over the unknown. By Day 3, I asked to be at the table on decisions and the plan for cleanup. It was agreed the county would be on board and we were briefed but sampling and cleanup were still left to the EPA and DEQ.

Exxon did take our suggestions – we provided mapping and landowners' names and they contacted our residents. I asked every agency to have a live person on the phone and face to face meetings with the public. Exxon had briefings daily, then EPA had daily briefings. The state set up a local office and took their own samples. We need to all work together.

We need to have a strategy to keep local government officials on board and in decision-making positions. We know the residents, the geography and the companies in our community. This spill opened our eyes to what a leak can do and how our emergency planning works. We also know now that we need to work on being included in decisions on cleanup and future safety planning for our residents.

The pipelines are safer than trucking and rail and keep good paying jobs in our community. We have 3 refineries and have always had expectations that DOT checked and assured everything was good. This was a wakeup call for the county to be more involved.

The positive outcomes are:

- We are now invited to participate in daily briefings on the status of the cleanup
- Local landowners have face to face meetings with Exxon and agencies
- Local elected officials are included in briefings
- Exxon and EPA have held public meetings
- Local workforce is being trained for hazardous cleanup
- The public now knows what to expect from the public response system

- We have assurances from Exxon that the property will be cleaned up and put back to the way it was before the leak
- We have independent water, air and soil monitoring and sampling through the State and EPA to confirm these assurances

What we can do better:

- Publicity will take a while to explain to agriculture producers and tourists that the Yellowstone River is safe to irrigate their crops, water livestock and that tourists can still float and fish
- Communication between all parties took a few days to be seamless
- Local government officials are still not openly included in decisions

I will say that all parties seem to be working together for our community. We do need rules that state the first priority should be working with local officials for the public health and safety of Montana's counties.

I am open to any questions.

Senator BAUCUS. Thank you, Bill.
Mr. Pruessing, you are next.

**STATEMENT OF GARY W. PRUESSING, PRESIDENT,
EXXONMOBIL PIPELINE COMPANY, EXXONMOBIL CORPORATION**

Mr. PRUESSING. Chairman Baucus, Ranking Member Vitter, I appreciate the opportunity to discuss with you the pipeline incident that occurred on July 1st in the Yellowstone River in Montana and to update you on the progress that we have achieved to clean up the spill.

Before I begin, however, allow me to repeat our sincere apologies to the people of Montana. We deeply regret that this incident occurred and we are steadfastly committed to not only complete the cleanup, but also to build the learnings from this incident into our future operations.

This first requires that we understand exactly what occurred. We do not yet know the precise cause of the apparent breach in the Silvertip pipeline and will not likely know until our investigation is complete. We do know that the pipeline had met all regulatory requirements, including a 2009 pipeline inspection, a December 2010 depth-of-cover survey, and additionally as recently as last month, the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, or PHMSA, performed a field audit of the pipeline's integrity management program.

And of course, we do know the effects of the incident. The pipeline lost pressure the night of July 1st, and within 7 minutes, our employees shut down the pumps. Shortly thereafter, we began closing valves to isolate segments of the pipeline and minimize any release. We estimate that no more than 1,000 barrels of oil spilled.

We notified the National Response Center and immediately began implementing our emergency response plans, drawing upon local resources from the ExxonMobil Billings refinery, as well as our experts from across the Country. A unified command center, led by the Environmental Protection Agency, and involving more than 750 people, now directs the response.

This coordinated efforts, combining the resources and expertise of government, industry and others, is crucial to effective cleanup and recovery. I speak on behalf of the entire company in thanking the public servants at all levels of government and the volunteers from nongovernmental organizations contributing to the effort.

This includes professionals from PHMSA, the Environmental Protection Agency, the U.S. Department of the Interior, the Montana Department of Environmental Quality, Montana Fish, Wildlife and Parks, the Yellowstone County Commission, local response organizations, International Bird Rescue and many others.

As part of our cleanup strategy, we have divided the area downriver of the spill into four zones. In the first two cleanup zones covering a combined distance of approximately 19 miles, we have deployed approximately 52,000 feet of boom, 270,000 absorbent pads, and several vacuum trucks, boats and other equipment to capture oil.

Our priority is to ensure the cleanup is safe and effective, a task made more challenging by the persistent high water levels in the Yellowstone River.

On July 17, we completed a 2-day procedure to remove any remaining crude oil from the Silvertip pipeline at the Yellowstone River crossing. The work was conducted under the direction and oversight of the EPA and the Montana Department of Environmental Quality. Through the Unified Command, we continue to conduct air and water quality monitoring of over 200 miles of the river, as well as wildlife assessments and recovery efforts.

To date, EPA monitoring confirms there is no danger to public health and no reported water system impacts.

We have also brought in recognized experts such as International Bird Rescue to actively monitor the impact on local wildlife. So far, impacts have been limited and small in number and a list is available on the website. Monitoring and mitigating impact of the spill on wildlife will remain a priority of ours throughout the cleanup.

As the Chairman knows, the Silvertip pipeline plays an important role in supplying energy to his constituents in the Billings area and therefore helps sustain local jobs and economic growth. We are committed to replace the damaged pipe using horizontal directional drilling techniques with a new section that we will lay approximately 30-feet below the riverbed, consistent with the PHMSA direction.

Of paramount concern to us is the impact on the local communities. We established a community information line and we have received more than 370 calls. About 160 of those calls are claims related to property, agriculture and health and we are actively responding to each one of those.

We have also sent several teams door to door to visit more than 250 residents in the most impacted areas. It is our goal to respond to individual concerns within 24 hours.

I am pleased to report that these outreach efforts have mostly received a very positive response. In fact, about 160 calls to the information line have been offers of help. This outpouring of local volunteer support is immensely helpful. It testifies to the resilience, industry and generosity of the people of Montana and we deeply appreciate their understanding and support.

To repeat, ExxonMobil Pipeline Company takes full responsibility for the incident and the cleanup and we pledge to satisfy all legitimate claims. But even then, our work will not be done. We are equally committed to learn from this incident and to build those learnings into our future operations.

Thank you.

[The prepared statement of Mr. Pruessing follows:]

*Gary W. Pruessing
President, ExxonMobil Pipeline Company
U.S. Senate
Subcommittee on Transportation & Infrastructure
Hearing on Yellowstone River Oil Spill Oversight
July 20, 2011*

Opening Statement

Chairman Baucus, Ranking Member Vitter, members of the subcommittee.

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Before I begin, however, allow me to repeat our sincere apologies to the people of Montana. We deeply regret that this incident occurred, and are steadfastly committed to not only complete the cleanup, but also to build the learnings from this incident into our future operations.

This requires first that we understand exactly what occurred. We do not yet know the precise cause of the apparent breach in the Silvertip Pipeline – and will not likely know until our investigation is complete.

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And, of course, we do know the effects of the incident. The pipeline lost pressure the night of July 1, and within seven minutes, our employees shut down the pumps. Shortly thereafter, we began closing valves to isolate segments of the pipeline and minimize any release. We estimate that no more than 1,000 barrels of oil spilled.

We notified the National Response Center and immediately began implementing our emergency response plans, drawing upon our local resources at the ExxonMobil Billings Refinery as well as our experts from across the country. A Unified Command Center led by the Environmental Protection Agency and involving more than 750 people now directs the response.

This coordinated effort, combining the resources and expertise of government, industry, and others, is crucial to effective cleanup and recovery. I speak on behalf of our entire company in thanking the public servants at all levels of government and the volunteers from non-governmental organizations contributing to this effort.

This includes professionals from PHMSA, the Environmental Protection Agency, the U.S. Department of the Interior, the Montana Department of Environmental Quality, Montana Fish, Wildlife and Parks, Yellowstone County Commissioners, local response organizations, International Bird Rescue and many others.

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Monitoring and mitigating the impact of the spill on wildlife will remain a priority of ours throughout the cleanup.

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Of paramount concern to us is the impact on local communities. We established a community information line, and have received more than 370 calls. About 160 of these calls are claims related to property, agriculture and health, and we are actively responding to each of these. We have also sent several teams door-to-door to visit more than 250 residents in the most impacted areas. It is our goal to respond to individual concerns within 24 hours.

I am pleased to report that these outreach efforts have mostly received a very positive response. In fact, about 160 calls to the information line have been offers of help. This outpouring of local volunteer support is immensely helpful. It testifies to the resilience, industry and generosity of the people of Montana. We deeply appreciate their understanding and support.

To repeat, ExxonMobil Pipeline Company takes full responsibility for the incident and the cleanup, and we pledge to satisfy all legitimate claims.

But even then, our work will not be done. We are equally committed to learn from this incident and to build those learnings into our future operations. Thank you.

Senator BAUCUS. Thank you, Mr. Pruessing.
Mr. McBurney, you are next.

STATEMENT OF SCOTT MCBURNEY, MONTANA LANDOWNER

Mr. MCBURNEY. Senator Baucus, Senator Vitter, thank you for the honor of allowing me to testify. I would like to give special thanks to Senator Baucus' staff.

My name is Scott McBurney. Since 2005, I have lived near the Yellowstone River between Billings and Laurel with my wife Sue and two sons. We own four horses, which we keep on 20 acres. We have no river frontage, but are very close to the river. We put up high-quality grass hay, most of which we sell except for what we keep for our own horses. The middle of our hayfield had not been cut this year because it was too muddy after the big May flood.

July 1st was a pretty hectic day. The river was at full flood mode for the third time this year and the U.S. Geological Survey forecast the river to be at 14 feet. At that level, the water covers most of my hay pasture and is just inches from getting into my shop and barn and less than a vertical foot from being inside my house.

There were some pretty nervous people at my house that day. My wife and family had gone to bed and I was getting ready to do the same when the Laurel Volunteer Fire Department showed up at my house and my neighbor's house with their lights flashing. When they came to our house next, I met them in the driveway. The odor was really strong when I walked out the door and I have to tip my cap to those firefighters driving around in the dark looking for houses next to a flooding river.

It was a mandatory evacuation and we found a motel in Billings on our fourth try. It was about 1:30 in the morning. When we got home the next day and I walked out in my pasture and found out that we had a problem. Oil had come over the ditch next to the river about halfway down my pasture. Big patches of oil were lying in the shortgrass where I had cut some hay. As you went further down the property away from the house, the amount of oil increased. Oily water stood in the ditches and in the pasture. The tall uncut hay had acted like a big brush and stopped a lot of the heavy thick oil. A thick line of oil showed on the edge of the uncut hay.

There was something else that was troubling to me, the water standing in the pasture that during the two previous floods had been pretty clear was an ugly brown color. When we got home on Saturday, I made a call to ExxonMobil. We were called later in the day by Crawford Company, who are acting as ExxonMobil's insurance. We have had several meetings with the people from Crawford and ExxonMobil and they have always been very helpful and more than fair.

On July 13th, Crawford wrote us a check for the hay we hadn't cut and for the loss of our pasture. The thinking is that once the ground dries out, ExxonMobil will remove all of the grass in the affected area.

On July 15th, Crawford brought us a check for our hotel expenses. They also agreed to pay us to buy an electric fence and a water tank so we can put our horses out on the undamaged portion

of our pasture with a temporary fence. We have put up an electric fence and the horses are out there getting fat.

We have been talking to Crawford about independent soil testing. They have given tentative approval for this. They would like an estimate from the company doing the work and we are now trying to find someone to do it.

We attended a meeting Wednesday, July 13th at Laurel High School. The information on air quality was good news. The air was fine. It smelled bad for a couple of days, but that is all. The questions I had about soil testing was not quite as clear. The EPA was going to do more, but a comprehensive plan was not put forward at that point. The information or advice on agricultural matters was incorrect or nonexistent.

On July 12th and 13th, the EPA came to my house and took soil and water samples, one soil sample on 10 acres of pasture. It ended up seeming more like a public relations move than a quest for information about my property. They brought a television crew. My wife Sue was interviewed and was the lead story on Channel 8 news that night. So it was exciting, but I couldn't help feeling a little bit disappointed.

I felt like the water testing was a little overdue. We won't have the results until July 27th, and that is almost a month after the pipeline broke.

On the whole, I think EPA is doing a good job. They have a lot of work to do and it is probably too early in the process to think about the concerns I have, the long-term effects on soil and water. Right now, they are cleaning up oil and that is what they should be doing.

The Montana Department of Environmental Quality came out to do some soil samples. On Monday, they took three samples. I need more information. How much oil is too much oil on my property? What is the long-term effect of oil on my grass? Will the grass be fit to use next year if it comes back? Why is some of my grass dying and some of it growing?

There seems to me to be a gap in the knowledge. The EPA guys don't know much about farming and the farm guy doesn't know much about oil spills. I think the biggest worry the landowners have is property values. The reason I want independent soil testing is I want to have a report in my file cabinet that I could show anybody who might be considering buying my place someday a clean bill of health, if you will, for my property.

I feel like ExxonMobil owes me this, the same with my water well. I would like the well to be tested for maybe 3 years or something. I don't think my water is bad. I just worry that somebody else might.

We will face a lot of questions from our hay customers as well, and I would like to have some science behind the answers for them.

Thank you.

[The prepared statement of Mr. McBurney follows:]

**Testimony of Scott McBurney before the United States Senate
Committee on Environment and Public Works
Subcommittee on Transportation and Infrastructure
Yellowstone River Oil Spill Oversight
Wednesday July 20, 2011
10:00 a.m.**

About Us

My name is Scott McBurney and I live at 651 N River Rd, Laurel MT 59044. Since 2005 I have lived near the Yellowstone River between Billings and Laurel with my wife Sue and two sons, ages 12 and 15. Sue and I are self-employed and both work at home. I build gadgets that measure radiation in a machine shop on our place. Sue does business management while finishing up her accounting degree at MSU Billings. Our family is pretty much the average Montana family; we are active in sports, Boy Scouting, camping, river rafting, fishing and hunting. We own 4 horses which we keep at home and try to find some time to ride when the weather is good. We put up grass hay, most of which we sell except for what we keep for our horses. Our hay is high quality, at least when I can get it put up without a lot of rain falling on it. We usually cut our hay field (15 acres) by mid-June, water it, and by the end of summer our horses are pastured in the hay field until spring.

Our place is 20 acres, we have no river frontage but I tell people our house is a pitching wedge from the river. For you non-golfers that's less than about 140 yards. We share an irrigation pump with some of our neighbors and pump water out of the river into small ditches on either side of our property. To irrigate, ditches are plugged with moveable dams to force the water out onto the graded pasture where it runs into a low area in the middle. This valley or low area in the middle of the pasture is where the water pools up when we irrigate, normally this water is only a foot or so deep, covers only a couple acres at most and is gone the next day.

When we bought our house we thought long and hard about the risk of the river flooding. We knew that living near the river would be a great joy for the most part; the wildlife viewing, the beauty, the water and decided to accept the risks as long as we had flood insurance.

This spring it became clear that 2011 would be the year that tested the wisdom of that decision. The snowpack by May was up to about 200% of normal and the river flooded after a big rainstorm, and this was before the snowmelt had really started in earnest. It was spooky to see most of our hay pasture, half the corrals and the lawn behind the house underwater. On May 25, 2011, the water crested at 13.8 feet on the Billings gauging station the third highest crest ever recorded at that point in time. It was pretty clear that there was more to come so I bought a dump truck load of sand, Sue bought 200 sand bags from Yellowstone County and we and our neighbors started filling sandbags.

1 July 2011

Friday, July 1 was a hectic day even by our standards. The river was in full flood mode for at least the third time this season. I have to say I think the USGS does a really good job with their river forecasts as far as snowmelt is concerned; we use their website a lot. The USGS forecast was for it to top out at about 14 feet, at this level the water is just inches from getting into my shop and barn and less than a vertical foot from getting into the lower level of my home. There were some pretty nervous people at my house.

My older son had earned his Eagle Scout award and his Court of Honor was scheduled for Saturday. My Mother and Stepfather had come from California for the ceremony and a McBurney family reunion, and were staying with us. Sue was busy helping Mom bake and decorate a huge, wedding-type Eagle Scout cake. Both of my brothers were coming to stay with us on Saturday.

My son had taken a custom hay cutting job with his boss in Laurel and I was helping him with that. We baled hay until well after dark getting home about 10:30 pm. After we had been home a short while Sue started accusing us of smelling like diesel fuel, even after showering she was walking around muttering about how bad we smelled.

Everyone except me had gone to bed and I was getting ready to do the same when the Laurel Volunteer Fire Department showed up at one of my neighbors' house with their lights flashing. When they came to our house next, I met them in driveway, when I walked out the door the odor was powerful. They informed us we were under a mandatory evacuation. "You got to go, and bring a change of clothes," they said. I've got to tip my cap to those firefighters driving around in dark looking for houses next to a flooding river, those guys were great. As we were walking out the door, I remember somebody asking, "Should we bring the cake?" We found rooms in a hotel in Billings on our fourth try at about 1:30 a.m. Saturday morning, Sue called the Laurel police/fire people and we found we could get back in to the house. When we got home I walked out in the pasture, I found out we had a problem.

The middle of the hay field, the valley or bottom area, had not been cut because it was too muddy after the May flood and after getting my swather (hay cutting machine) stuck a couple times I gave up on it for the time being, thinking I would cut it as soon as it dried out.

Oil had come over the ditch next to the river about halfway down the pasture. Big patches of oil were lying on the short grass where I had cut hay. As you went further down the property away from the house the amount of oil increased. Oily water stood in the ditches and the pasture. The tall uncut hay had acted like a big brush and stopped a lot of the heavy oil, a thick line of oil showed on the edge of the uncut hay. Water was still coming over the ditch down at the end of our property so I couldn't go all the way down there. A simple fact seemed to be in play, where there had been more moving water Friday night, there was more oil. There was also something else that was troubling to me, the water standing in the valley of the pasture, which during the

two previous floods had been pretty clear, had an ugly brown color. As I write this on July 16 the last of that brown water is drying up.

The Response

When we got home on Saturday Sue went on the internet and found an article about the oil spill, which included a phone number to contact Exxon/Mobil. We called they took our information and we were called later in the day by Crawford Co. who are acting as Exxon/Mobil's Insurance Company. Crawford has done a good job keeping in touch with us since the spill, when we need something we call and they have come through every time, so far.

We have had several meetings with agents from Crawford and Exxon/Mobil they have always been helpful and more than fair. On July 13, Crawford cut us a check for the hay we couldn't cut yet, and for this year's loss of use of the pasture. The thinking is that once the ground dries out, Exxon/Mobil will remove all the grass in the affected area. We made the decision to wait for the pasture to dry out without any pressure from Exxon or Crawford. I have talked with some of the crews working on adjacent properties. One question that remains about Exxon's initial remediation is exactly how they are going to do it. The crews have been using string trimmers (weed whackers) and I am not sure I want to have my grass cut that short as it could be damaged. A guy I talked to said they were thinking about using a swather to cut it, but I am not sure about that either, I had cut some of that field only a couple weeks before the spill with my swather and think that a lot of oil could be left on the field, as it leaves about 2-3 inches of grass when cutting. I am hoping the County Extension Agent can help. In short I want to get all the oil I can off of my pasture, but not do any more damage to the grass than necessary.

On July 14, Crawford brought us a check for the hotel expenses we incurred on July 1, when we were evacuated. They also agreed to pay for us to buy an electric fence and water tank so we can put our horses out on the undamaged portion of the pasture with a temporary fence. It's now, July 17 and today we have put up the electric fence and the horses are out there getting fat.

We have been talking with Crawford about independent soil testing; they have given tentative approval for this. They would like an estimate from the company doing the work and we are now trying to find someone to do it. I feel that soil testing is important for us and I will write more about that later.

As mentioned before we had a McBurney family reunion at Fairmont Hot Springs, we left on Wednesday, July 6 and returned on Sunday, July 10. We were the host family. Sue had organized the whole thing so we really couldn't miss it. Because we were gone, we missed some meetings. I think the EPA had one and I know the Governor had one. We did attend the Wednesday, July 13 meeting at Laurel High School; I think for the most part EPA was running that meeting. The meeting had some good information and some questionable information. The information on air quality was good news, it was presented in a way I could understand and it was definitive. The air is fine, it smelled really bad for a couple days but that's all. The answers to questions about

soil testing were not quite as clear. At this meeting, I got the impression the EPA was going to do more soil testing, but a comprehensive plan was not put forward as far as I could tell. The information or advice on agricultural matters was incorrect or non-existent.

On the whole I think EPA is doing a good job, they have a lot of work to do and it's probably too early on in the process for them to think about what concerns me the most, long-term effects on soil and water. They're still cleaning up oil right now, as they should be.

On Tuesday, July 12, EPA came to my house and took a soil sample, one sample on 10 acres of effected pasture. It ended up seeming more like a public relations move than a quest for information about my pasture. They brought a television crew, Sue was interviewed in the lead story on Channel 8 News that night, so it was exciting but I couldn't help feeling disappointed.

On July 13 an EPA contractor came to our house and took water samples, this was good news. I felt like the water testing was a little overdue but I think the water is good and was not that worried. The results are not due until 7-27. That's almost a month after the pipeline broke.

As I said I haven't been to any of Governor Schweitzer's meetings, so I don't think I can say much about the State's response. He was quoted in the paper saying everyone should get a lawyer, which I'm not sure is advice worth taking at this point.

Montana DEQ (Department of Environmental Quality) called today (Sunday, July 17) and they are coming out to do some soil samples on Monday, July 18. It sounds like we are going to get about 3 soil samples. Sue and I had talked to some people from the Governor's office at the Wednesday meeting in Laurel and gave them our contact information, expressing our concerns about soil testing, in a scientific manner. I think the Governor is looking for litigation vs. Exxon more than soil remediation for my pasture, but we will see.

Montana FWP (Fish Wildlife and Parks) was in our area on Thursday, July 14. There must have been 5 trucks with 8 or 10 wardens on N River Road. I have no idea why all those game wardens were here. The funny thing is Sue had just seen a Black Bear a few moments before and we were out looking for it. FWP was unaware of the Bear, and we shared some laughs with a game warden about the Bears black color being because of oil.

I haven't had a lot of interaction with the county government; I know they were doing a lot of traffic control in the spill area before Exxon got all their crews in place. Sheriff Mike Linder and his crew had to evacuate my neighbors on July 2. They were still in their house, even though the river was 3 or 4 feet deep and running in their yard.

What The Landowners Need

As a landowner, I feel I need information. I've asked some questions that were not answered. How much oil on my property is too much for the hay to tolerate? What is the long term effect of

oil on Brome grass? Will the grass be fit to use next year if it comes back? Why is some of my grass dying and some doing fine?

There seems to me to be a gap in knowledge; the EPA guys don't know much about farming and the farm agent doesn't know much about oil spills.

I think the biggest worry the landowners have is property values. The reason I want private soil testing is I want to have a report in my file cabinet that I could show anyone who might be considering buying my place. A clean bill of health, if you will, for my property. I feel like Exxon/Mobil owes me this. The same with my well water, maybe 3 years of testing. I don't think my water is bad; I just worry that someone else will.

We will face questions from our hay customers as well, and we need solid science behind our answers.

My 2 Cents

I need oil, it's just a fact of life, there's no such thing as a plug-in tractor. This country needs oil. More than that, we need the jobs the oil industry brings to Eastern Montana. The Yellowstone Valley is a better place because the Exxon/Mobil refinery is here. I know a lot of people would take exception to this opinion, but I believe it.

The Yellowstone River is a powerful force and anything in or near its banks is at risk. That should always be a consideration when anything, whether a home or a pipeline is positioned near the river. I hope the Silvertip Pipeline accident is something we can learn from and move on.

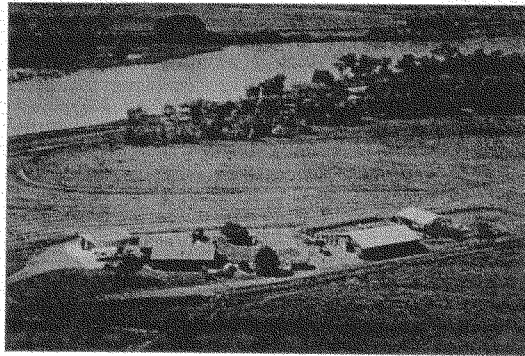


Photo 1 shows part of the property at 651 N. River Road, and its proximity to the Yellowstone River

Photo 1



Photo 2

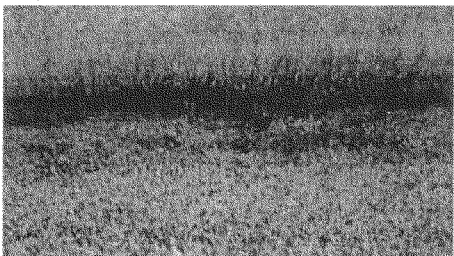


Photo 3



Photo 4

Photo's 2 and 3 show the line of tar/oil deposited at the base of the uncut hay in the low area of the pasture.

Photo 4 shows standing, brown water with sheen of oil on top.

Senator BAUCUS. Thank you very much, Mr. McBurney.

I will start with you, Mr. Kennedy. What are some of the questions that you would like to have been asked and answers given from the EPA folks and the PHMSA folks? You said as county commissioner, you were not consulted very much. So what are some of the areas that you would like to have answers to?

Mr. KENNEDY. Senator, when the Unified Command Center was started, it was the EPA. It was the responsible party and it was DEQ with the State of Montana. The local government wasn't included until I made a point of going back and saying we need to be sitting at the table.

Then I was asked the question, you will just go along with whatever everyone else does? And I said, I would like to see what is being talked about so we can answer the questions for our own local folks that have the questions to be answered.

Senator BAUCUS. What are some of the things that you could have helped them with?

Mr. KENNEDY. I think the one thing that we did help them with to begin with is we wanted to make sure that there was a face to every landowner that was affected. And we provided the GIS survey, the map, the names and the addresses of all the local landowners. We were able to mitigate between a lot of the landowners and actually offered to go out and meet with any of the landowners, and also Exxon or EPA. A lot of the local folks trust us and we would help them through the process.

The other is the public meeting process. To begin with, we called the press conference to make sure that the public understood things were safe. We didn't get for days any sampling so we could get out to the public the opportunity to tell people what was actually in the sampling. I know there is an ability to sample and come back right away with to at least verify that there was not public safety problem there and then come back with the final results and everything that is in there. We needed to assure the public.

The other piece that we did is that we brought to the table the City-County Health Department which is our health person in the county that had to assure the public that between the drinking water, between the health effects, there was no health problems there. They trust the local people. And I think that is really what we bring in.

The other thing that we hear, Senator, is with the local elected officials, we are there years after the problem occurs. And we can follow through with making sure that the plan is adhered to. We do need to be a part of the plan to know that we can at least monitor the plan in the future after everybody leaves.

Senator BAUCUS. You make good points. You are going to be there afterwards as commissioners. So do you have standards that you have recommended to EPA and to PHMSA and to Exxon that you want to see met that will be adhered to five, 10, 15 years from now? It gets to the point that Mr. McBurney is raising. What is the value of his property going to be five, 10 years from now? He wants something in his file to show that they cleaned up 100 percent when some potential purchaser comes along.

Mr. KENNEDY. Senator, we are going to need to be able to answer those questions, and to have a standard and the scientific research

and looking at the sampling. We need to come back and be able to assure that those standards were met.

Senator BAUCUS. I would suggest that you kind of figure out what those standards should be so that they are locked in place now.

Mr. KENNEDY. We would like those standards put into the plan, and we will be working with our extension agent and our folks in the county. We do have some folks that are experts in these fields. We can bring that information back to the people.

Senator BAUCUS. Is there anything you heard from the other two panelists you would like to comment on? Did anybody say something so outrageous it needs a response?

I am saying that somewhat facetiously.

No, the panel that preceded you. Did any of the two witnesses say anything that you would like to respond to?

Mr. KENNEDY. I think I would like to talk about DOT and the monitoring. The city of Laurel did come forward and they were worried about the high water. Everyone has been worried about the high water, Senator, and we have had record snowpack in the mountains. We were lucky that we didn't get 90 degree temperatures the end of May, first of June like we have had before, but the water went up. We had major flooding in different areas. We had scouring under bridges.

So the city of Laurel was right to call and say they had some real concerns. Their concerns were very legitimate. I think they were looked at and they moved on because it was high water and you couldn't get anybody on the river. But I really do think that when local government, be it the municipality, be it the county, calls, we really do need to get in-depth and look at what could happen in the future.

And I think the one thing that we are looking at now is we haven't had flooding like this since 1978 naturally. Our last flooding on the Yellowstone River was down in the Huntley area back in 1998. So I think we all became a little at ease with the river. We have gone through the drought years and I think we need to beef it up and everyone needs to respond to high waters.

Senator BAUCUS. Great. Thank you very much.

I will turn to Senator Vitter.

Senator VITTER. Thank you, Mr. Chairman. Thank you for this hearing. This is very important because the event is very significant and also as a Louisianan, I take great interest in this because we obviously will have many, many pipelines with the same potential vulnerability.

I have several questions for Mr. Pruessing.

Mr. Pruessing, there has been a lot of discussion in the media on conflicting timing about how long it took to shut down the oil flow from the pipeline. And I have tried to follow this carefully, but I have gotten confused. Can you describe that process in some detail and in particular why couldn't you simply close the block valves on either side of the Yellowstone River first?

Mr. PRUESSING. Thank you very much for your question, Senator. First of all, let me run through the chronology of what occurred on the evening of July 1st. This particular pipeline is operated out of our Operations Control Center in Houston, Texas. That is where

we operate all of our pipelines across the United States. That is a typical technology for pipeline companies to have trained experts and all of the equipment in a single control center where you can operate the pipelines, the pumps, the valves from that one spot.

At 10:40 p.m. Mountain Time on July 1st, we saw a pressure drop on the pipeline in our control center. The operators at that time did not know what was actually occurring. They did not know if a pump had shut down, whether an instrument had failed or something else. They analyzed the situation for several minutes. When they could not determine what was going on, they made the decision to shut down the pumps. So those pumps were shut down at 10:47. So within 7 minutes, we had the pumps shut down.

We then proceeded to close individual valves along the pipeline to isolate various segments of the line. Many of these obviously are remotely controlled valves so that the operator in the control center could press a button and actually close some of those valves.

Shutting down a pipeline is not like turning off your faucet in your home. You can't just close the valve and have everything shut off. The problem is you have large amounts of mass moving at high velocity down the pipeline. When that occurs, if you were to close the valve all of a sudden, you could over-pressure a line. That is an issue for liquid pipelines, and so we have a number of various valves along the pipeline to isolate various segments and it is a rather detailed and complex procedure to make sure that you isolate various segments properly without creating additional problems.

We actually isolated the valve right at the riverbank at 11:36, so it took us 49 minutes to close that valve from the time the pumps were shut down to the time that valve was closed. We actually still at that point did not know specifically at what site we may have an issue. It was not until 11:45 p.m. or approximately 9 minutes later that we received a call from the Fire Department of the city of Laurel to our control room that there was the smell of petroleum near the Laurel crossing. And that was really the first indication that we had to pinpoint where the issue was.

We then proceeded to contact the NRC at 12:19, so just over 30 minutes after the time when we had actually pinpointed the issue, we called the NRC.

So this is the data that we have provided to PHMSA right from the very beginning. There has not been any change in this data. As was mentioned earlier by Ms. Quarterman, they have actually come and visited our control center and gone through the log of the various steps that were taken and when the valves were closed, but that is the actual details of the actual shutdown process.

Senator VITTER. OK, thank you.

We have obviously seen reports of plenty of wildlife impacts. But apart from direct wildlife impact, there clearly must have been impact to soil and plants on the banks of the river that will impact wildlife, including fish. What are you doing to address that, which relates to wildlife impact?

Mr. PRUESSING. We are working closely with the full unified command, of course led by the EPA; working with the State DEQ and ourselves as the responsible party. Each day, we go out and survey the river using aerial flights as well as walking the river to identify

where there are patches that need to be responded to. That data is sent back on a daily basis and the plan is amended to identify where you are going to send resources out the next day to do the cleanup work. As was mentioned, we have over 500 people now out on the banks of the river doing the cleanup.

The actual oil that was spilled, probably one of three things happened to it. A portion of it evaporated, as was mentioned earlier. A portion of it was broken apart and will biodegrade in the river naturally. And then a portion of it obviously got pushed out to the edges of the river where we are having to do the cleanup.

As the river continues to recede, we will be able to get to more areas. We are working with the Unified Command on a daily basis to identify what areas to go out and respond to and make sure that we have the resources in the right places.

Senator VITTER. OK. Before the break, for weeks or even months, there was obviously high water and flooding potential. Given that before the break, what do you do to think about and ensure pipeline safety?

Mr. PRUESSING. We have a very detailed integrity management program that we apply to all of our pipelines. And this is just another one that is in that program. Certainly, the first step, as was mentioned earlier today, is that we are required to do a risk assessment on all of our pipelines to make sure that we understand what potential risks are there.

This particular line had an in-line inspection in 2009. And again as was mentioned earlier, that did not uncover any issues from an integrity standpoint.

Senator VITTER. I don't want to cut you off, but I am really talking about specific to the high water and the flooding threat fairly near before the rupture. What did that provoke or not provoke on your part?

Mr. PRUESSING. We had taken the step in December, 2010 to do the depth-of-cover survey to confirm that we had adequate depth of cover in the river. Again, as was mentioned earlier, we have been working with the city of Laurel really over several months as they raised concerns about erosion of the south bank.

The south bank by itself had a lot of depth of cover and we confirmed that with this same depth-of-cover survey. That was about 12 feet. But we did confirm the depth of cover under the riverbank.

In addition, we actually shut down the pipeline for a day in May to step back and do a further risk assessment to look at all the data PHMSA had and that we had to identify if there were any issues that could cause us additional concern. This is a process that we would normally do when we have river flooding.

I will just give you an example. Obviously, you are from the State of Louisiana. We have had to respond to the issues with Mississippi flooding this year. When they were talking about opening the Morganza Spillway for the first time since 1973, we identified several pipelines we have that cross the Atchafalaya River. The last time that Morganza Spillway was open, we had some issues with our pipelines in 1973.

So we did a risk assessment. We decided that it was too great a risk based on history and based on the details of those lines. We

actually shut those lines down and filled them with water before the Morganza Spillway was opened.

We were fortunate that those pipes were not damaged at the time, even when the additional water was flowing in the Atchafalaya. And we later worked with PHMSA to put those back in service. But we used that same kind of process here on the Yellowstone crossing. We looked at the risks. We looked at all the details on pipeline integrity. We looked at the depth of cover. We looked from a broad perspective, did we feel like we had any risks even with the high water. At that time, we concluded that we had a safe pipeline and so we put it back in service.

Obviously, something happened here that we do not yet understand, something very unusual. And we are very anxious to complete our investigation as well so that we can learn from that.

Senator VITTER. Mr. Chairman, if I could just ask one more question.

Senator BAUCUS. Absolutely.

Senator VITTER. Thank you for your courtesy.

We have heard about EPA testing air and water. Is Exxon conducting any independent testing? Is anyone else conducting completely separate independent testing, NIH, CDC, anybody like that?

Mr. PRUESSING. Right after the incident occurred and we had identified where it had occurred, we started doing industrial hygiene testing of the air. That was in place within just several hours of the time that we knew we had an issue to deal with. Fortunately, that also did not show any particular issues from an air standpoint, but we did put that in place right away.

Once the Unified Command was in place, we have tried to work our activities through the Unified Command so that we have full alignment with the EPA and the Montana DEQ.

Senator VITTER. OK.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you.

Senator Lautenberg, we would like to hear from you.

**OPENING STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM THE STATE OF NEW JERSEY**

Senator LAUTENBERG. Thanks, Mr. Chairman. I ask consent that my full opening statement be entered in the record.

Senator BAUCUS. Without objection.

[The prepared statement of Senator Lautenberg was not received at time of print.]

Senator LAUTENBERG. Mr. Pruessing, I want to ask you, how many times has PHMSA come to Exxon and asked about problems with the Silvertip pipeline?

Mr. PRUESSING. PHMSA does regular audits and inspections of all of our integrity program. They actually did a very detailed assessment of this particular Silvertip line in June of this year.

Senator LAUTENBERG. Had you been notified of any problems that they saw? Let's talk about a period from 2002 to 2003 on.

Mr. PRUESSING. The last time that we did an actual in-line inspection was in 2009. After that inspection was completed, PHMSA looked at those records and they identified four or five things that

they wanted us to respond to. They were not particularly integrity issues on the pipeline, but they were items that they identified that we needed to improve. That included removing some vegetation near a portion of the pipeline; adding some paint on a portion that was above ground; doing some additional walking patrols on the pipeline and not just aerial patrols; actually correcting some small packing leaks on the top of some valve bonnets.

But those were things that all were responded to and at the time that this incident occurred, we did not have any outstanding issues from a regulatory standpoint on this pipeline.

Senator LAUTENBERG. Well, I have a list of criticism and complaints that PHMSA talked to ExxonMobil about going back to January 30 , 2003: proposed compliance order; notice of amendment; February 18, 2005, probable violation; compliance order; proposed civil penalty and notice of amendment.

The list goes on. There are nine of those, and that doesn't sound like it is very insignificant or relatively minor things to me. I am sure you are aware of these. Would you say they are minor?

Mr. PRUESSING. Senator, any time that an item is identified by the regulatory agency, we need to respond to it quickly. Again, the normal process that the regulatory agency uses to notify the operator of issues they need to respond to are the type of items you talked about, notice of probable violation or those type of documents that are sent to us. It is the mechanism by which they inform us to go respond.

Senator LAUTENBERG. Well, let's look as recently as June 8th in 2010. A warning letter was sent based on a 2009 standard inspection. The issues were raised. The breakout tank mixer was leaking and in poor working condition and the tank was operated by ExxonMobil's refinery. On June 8th, also 2010, based on 2009, inadequate procedures for breakout tank maintenance and operator corrected its procedures. The case was closed.

But it seems to me that there is a frequency of issues that question whether ExxonMobil here is doing what they have to protect the safety and the well being. I mean, this accident here didn't come without having had several warnings about conditions on the pipeline.

Now, has ExxonMobil responded to these and gotten an approval from PHMSA that says, OK, these things were taken care of?

Mr. PRUESSING. Yes, Senator. Actually by the time we received that warning letter, all of those items had already been taken care of.

Senator LAUTENBERG. So it was just a coincidence that these things happen and here was this breakout that it did the kind of damage that it did. It doesn't sound very efficient to me. There seem to be a series of things that needed attention, and why they had to be called to the attention of a company like ExxonMobil to avoid problems here. It looks like these things were leading up to the problem that ultimately resulted in this terrible accident.

Mr. PRUESSING. Well, we certainly take our responsibilities very seriously.

Senator LAUTENBERG. Well, it doesn't suggest it, the list of these. Mr. Chairman, I would like to put this list on the record.

Senator BAUCUS. Without objection.

Senator LAUTENBERG. Thanks very much, Mr. Chairman.

[The referenced information follows:]

Senator BAUCUS. I thank the Senator.

I just have a couple of questions, speaking to Mr. Pruessing.

You mentioned a pressure drop noted in Houston. I am just curious how all this works. Is there a control room and people look at dials?

Mr. PRUESSING. Yes, there is a control room about the size of this room; a number of computer screens where they bring in information from our pipelines across the Country. Some of that information comes in on telephone line. Some of it is sent through satellites. But they are able to monitor all of our pipelines, valve positions, pump conditions.

Senator BAUCUS. In this case, I am just curious, is there somebody watching the gauge go down? Or is there a computer program that is programmed so that if there is a certain percent drop in pressure a bell goes on, a light flashes? I am just curious what happens here.

Mr. PRUESSING. All of those are accurate. We have people sitting watching the screens. We have a number of alarms that have already been identified and pre-set that would give an operator indication if something unusual were happening. So all of those are accurate.

Senator BAUCUS. Do you know what happened in this case?

Mr. PRUESSING. In this particular case, they did get an alarm for the drop in pressure. They immediately called in their supervisors who tried to look at it and see if they could understand what was happening. And when they couldn't figure out exactly what had occurred, they decided to take the step to shut down the pumps.

Senator BAUCUS. How many sensors are there on this line between Houston and Laurel?

Mr. PRUESSING. I don't know the specific number of sensors. I would certainly be glad to get back to you with that specific number. But we have a number of different pressure and flow meters along lines to be able to monitor a pipeline. I will have to get back to you on the specifics on this line.

Senator BAUCUS. If you would. I am curious. Some timeline I saw a block valve was shut and then reopened for may 10, 15 minutes, something like that. What was that all about?

Mr. PRUESSING. That is accurate. Well actually, again when we did not know exactly what was occurring, but we looked at what had happened and where the pressure drop occurred, the operators determined that since the line slopes down into one of our delivery points at one of the local refineries, that reopening that valve would drain oil away from that segment of the oil and have it delivered into the customer.

So that was done from a safety perspective to say let's get the oil away from portions of the line where we may have an issue until we determine it. So it was reopened consciously to try to get the oil to drain by gravity into the delivery point. It was later re-closed to make sure that we had fully isolated the line.

Senator BAUCUS. Where is that block valve, the one in question?

Mr. PRUESSING. That particular valve is north of the Yellowstone River, downstream of where the event occurred.

Senator BAUCUS. So that was reopened in order to get oil flowing down hill?

Mr. PRUESSING. Yes. And I would also add that at the river crossing, there is actually a check valve which allows flow only to go one way, so there was already a restriction there to prevent oil from flowing back. But again, it is a down hill slope, so reopening that valve would just allow the oil to drain into the delivery point.

Senator BAUCUS. I find it a little concerning that it took somebody not working for the company to tell you that you had a leak. That is the Laurel folks who notified you first with a telephone call, rather than the company itself with its sensors and gauges and computer program figuring it out.

Mr. PRUESSING. That is certainly something that the industry continues to work on, trying to develop new technology on how to monitor varied lines and make sure that we have the right sensors to be able to pinpoint when there is an issue.

Senator BAUCUS. And ExxonMobil is committed to fully cleaning up?

Mr. PRUESSING. Absolutely.

Senator BAUCUS. How much has the company budgeted for the cleanup?

Mr. PRUESSING. Right now, we are not worried about budgets. We are worried about putting the resources on getting the spill cleaned up.

Senator BAUCUS. So you are just going to get it done irrespective of the cost?

Mr. PRUESSING. That is correct.

Senator BAUCUS. A lot of landowners are a little concerned, as is Mr. McBurney about his property values on down the road. There is a lot of cleanup here. I commend EPA and I commend ExxonMobil for all that work.

But to be honest about it, it is Mr. McBurney and other landowners who are a little concerned about what is going to be the value of the land. Will there be waste from the oil residue, something left 5 years from now, 10 years from now, 15 years from now? Montanans want to know that, that it is going to be in good shape. So can I ask you, next year or the year after or even 5 years from now, when landowners show that their property is damaged, would you commit to me today to make them whole?

Mr. PRUESSING. Well, first of all, Mr. McBurney, let me just apologize to you personally for the troubles that we have caused and we are committed to stand behind the complete cleanup.

As far as longer-term sampling, we want to work with EPA and Montana DEQ and other officials to make sure that we have an agreed plan and what that is. And we have not set a specific plan and what that sampling will be. We will work with all the applicable agencies to make sure that is put in place so that we do not have the concerns.

Senator BAUCUS. You didn't really answer my question. My question was, will you commit to me today to make them whole, when several years from now they can show that their land has been damaged?

Mr. PRUESSING. We certainly will pay all legitimate claims.

Senator BAUCUS. Including drops in land values?

Mr. PRUESSING. I will certainly ask our people who handle those kinds of claims to get involved in that, but certainly we now have over 40 people on the ground up there to respond to all of the concerns of the people in the community, and we want to work those all individually. We don't have any set formula for anything. We want to work with the individual landowners and make sure that we address all of the issues that we have caused.

Senator BAUCUS. It sounds like you are kind of pulling your punches a little bit. On the one hand, Exxon says it is going to make everybody whole. On the other hand, if there is still damage five or 6 years from now that can be demonstrated because of the oil spill, you are not saying you are going to compensate that landowner.

Mr. PRUESSING. No, again we will stand behind honoring all legitimate claims.

Senator BAUCUS. So if Mr. McBurney, for example, five, 6 years from now has something in his file that shows that there is still damage on his land because of the oil spill, and he tries to sell it and the sale price is 30 percent below what it otherwise would be, you will make up that 30 percent?

Mr. PRUESSING. Well, that is why it is really important that we work with the applicable agencies to make sure we do the necessary soil testing now so that we can determine if there is any issue with regard to the land. So we certainly want to work very closely with all the agencies to make sure that proper testing is done now.

Senator BAUCUS. I understand. But if it can be shown that there is still damage that has reduced land value, do you commit to making him whole?

Mr. PRUESSING. Yes. If there is a legitimate claim that is tied to the oil spill, then we certainly will honor that.

Senator BAUCUS. OK. Thank you.

Just a couple of questions about trenching versus drilling. I understand that just to be safe that Exxon is going to replace the current line with a drilled line. Is that correct?

Mr. PRUESSING. That is correct. That has been the recommendation of PHMSA and we certainly agree with that. We had actually independently come to that conclusion that would be the necessary technology to replace it.

The technology of directional drilling really became prominent in the mid-1990's. Prior to that, especially when you have underwater areas where pipelines are buried, it was normal to ditch that and have it be covered over with just the riverbed. But today, using directional drill technologies is more commonplace, particularly in river crossings.

Senator BAUCUS. What about the rest of the rivers in Montana? Some are trenched, I think.

Mr. PRUESSING. We are in the process now of doing a risk assessment on all of the river crossings on the Silvertip, consistent with the order we received from PHMSA. Part of that process started this week. We actually brought in a boat with side-scan sonar technology instrumentation. We have done an initial sounding in the Billings crossing, which is not where the incident occurred, but

where it crosses back across the river to get to the ExxonMobil refinery.

The initial data did not indicate any exposed pipe, but we will be working with PHMSA and EPA and Montana DEQ on the specific procedures to do that in greater depth so that we actually know where the lines are located in that crossing. So that is something that we need to do and certainly agree to make sure that the river crossings are safe on the rest of this line.

Senator BAUCUS. I appreciate that.

Mr. McBurney, I heard you say you are a little concerned about testing a little bit, like the EPA folks came out and really had a limited sampling, if I heard you correctly. Although I hear some think EPA is doing a pretty decent job, as is Exxon doing a pretty decent job. But just sometimes the devil is in the details.

If you could just again expand upon some of the cleanup that you have experienced and how widespread it is and should it be better, from your perspective.

Mr. McBurney. Well, first let me say it is an evolving process. Most of my concerns are down the road a year from now when this is over, 2 years, 3 years. Next year, am I going to have hay? What is it going to look like?

As far as my place in particular, tomorrow I have a meeting with a soil expert in Billings is going to come out to my house and a representative of Exxon is going to be there. And we are going to talk and see if Crawford Insurance Company will pay to have this guy do some testing so I can have that. You know, a site-specific analysis of my property is what I feel like I need, and more than one sample of the soil under my pasture.

The oil impacted my pasture progressively. The more river water came in, the more oil I had. So I felt like I needed multiple tests on my soil. And the other thing is I had ponding of water with oil in it, and that is different. It is a different impact, I am afraid, than just the oil rushing over the surface of the ground and then flushing on down the river.

I had a pond of water on my property. The oil came in and stayed and the water evaporated. So I am a little concerned about that.

But I do think EPA is on the job. I heard a rumor that they were going to do more thorough soil analysis on selected parcels, but I am not in the loop, so to speak on a lot of that.

Senator BAUCUS. OK. But to feel better assured, what would you like to know and who would you like to give that information? Is it EPA? Is it the county? Is it Exxon?

Mr. McBurney. I would like somebody to know. Like I said in my testimony, we went to a meeting last week, a week ago today, and there wasn't really anybody there that crossed that agricultural versus scientific oil boundary. There was kind of a gap there. And I am hoping that I can hire his guy and that is his region of expertise, and that I can have at least for myself, I can have those issues resolved.

I am not convinced that my property is irreparably damaged. I really don't know. I don't know how much oil is on my property. It is an unknown. It is a source of worry for me.

Senator BAUCUS. Right. So let me ask Mr. Pruessing, what is the best way to help Mr. McBurney out here? He is concerned about oil as it mixes with hay land and so forth, ag and oil and so forth. How can we help him out?

Mr. PRUESSING. Yes, this is a very good example of what I spoke about earlier, about wanting to work with each individual landowner individually because their concerns may be different or their issues may be different.

If we need to get additional expertise out there that meets this bridge between science and agriculture, then we will find that kind of resource to help address these issues.

Senator BAUCUS. Mr. Kennedy, any thoughts on that one?

Mr. KENNEDY. Senator, this is a perfect example of every individual landowner that has been affected. When we say make them whole, this plan should incorporate a piece so it is individualized for each one of them that we address their issues, be it 10 acres, be it 20 acres, be it 160 acres that are long the river. And I think we can do that.

The No. 1 area that you are talking about is between our extension agent and some other experts, we should be able to get a standard and know what may happen over the next five, 6 years and see what those samplings are.

Our biggest problem is the samplings have taken so long to get the results back. And with that, we are not quite sure the samplings have been taken and we haven't had the results back.

Senator BAUCUS. Why does it take so long? Do they have to be sent someplace or do we need more resources to sample? Why does it take so long?

Mr. KENNEDY. I can't answer that question. EPA has said they have taken the sampling and have not gotten the results back. That was our biggest frustration for the first four or 5 days is how come it is taking so long if this is an emergency situation. Can't we get at least some results back right away for the public?

And I think that is where Scott is, is knowing that after he has certain areas of his property that he wants sampled, and knowing what is there and then possibly monitoring it in 1 year and 2 years from now to check and see. And what those levels are. And I guess with the county, we would like to know what those levels are and see what the standards are so we can actually go back and say these are the standards that have been set up.

Senator BAUCUS. OK, we all want to help each other out here. So what can I do to help any of you three, landowners especially? We are here to serve the landowners, so any thoughts on what can I do to help move this along?

Mr. KENNEDY. Senator, I would say No. 1 is the cooperation of the agencies working together. And by you insisting on the agencies working together and expedite some of these results so we can get the plan and then working with the landowners.

No. 2 would be the pipeline is going to have to go through and being able to get that pipeline drilled and so it is safe and get oil back into the refinery is another issue that we have in our community. There are 280 employees there.

No. 3 is that what we need to do is all of us make sure that our landowners, the people that live in our county that have been af-

fect, are satisfied with the results that are coming forward. And I think as we go forward on that, just your involvement with this brings a lot of credibility as we work with these Federal agencies.

Senator BAUCUS. I appreciate that.

Mr. Pruessing, do you need any help with PHMSA or anybody? EPA or anybody?

Mr. PRUESSING. No, they have actually been, EPA and PHMSA have both been very professional in working with us, providing us direction, and helping us work through these problems.

Senator BAUCUS. Mr. McBurney?

Mr. MCBURNEY. Well, I would like to echo Bill's sentiment on getting the pipe going again. A lot of my friends work at ExxonMobil and I know a lot of contractors that do work there as well. So it is important to the community.

I appreciate you letting me come and be here. You have done something already.

Senator BAUCUS. I hope to. It is a goal.

Mr. MCBURNEY. Yes. Like I said, it is important to me to have a report about my property. And as a landowner, I would think that other landowners would want the same thing. I really don't know if that is true, but that is kind of what I would like to have in my back pocket is a site-specific report detailing the impact, what was done, conclusions, that kind of thing. If I could show somebody or tell somebody like a hay customer asking, you know, is this hay going to have oil in it? Or if I go to sell my place a couple years from now and somebody I would have to disclose it to him that I have that issue.

Senator BAUCUS. Have you asked for that?

Mr. MCBURNEY. From Exxon?

Senator BAUCUS. From anybody, Exxon or EPA?

Mr. MCBURNEY. No. Well, I asked for soil sampling. But as I said, I think EPA is going to get to it. I don't know whether it is going to be site-specific like I want.

Senator BAUCUS. It is a good idea. I think some site-specific assessment of each person's land for the reasons you indicate makes good sense. And let's push for that.

Before we finish up, I should have done this earlier, hold up some photographs of the flooding. Here is one. I suppose that is just below Laurel. Yes? You can see the oil there, black, the Yellowstone River. It was high.

OK, next? Here are some folks doing the cleanup. It is laborious work, but they are out there working at it.

OK. Here is another photograph of the oil, with the river off to the side.

OK. Here is another you can see the oil caught from the sides in the trees and so forth, and how high the water is. You may recognize the land here, Scott, and know who that is. I don't know whose property that is, but it is up there. You mentioned within an inch of your house. This reminds me of that.

Of course, here is another oil spot on the side.

The river is moving along pretty quick and high, so it pushed, as you know, the oil up on the side because it was so high.

OK. I want to just remind everybody that anybody who wants to submit additional testimony, the record will be open for 2 weeks.

And I say that especially for people from Montana who may want to submit additional testimony. The record will be open for two more weeks.

So this won't be the last of it. We will be following up.

Thank you very much, everybody.

The hearing is adjourned.

[Whereupon, at 12:03 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows.]

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR
FROM THE STATE OF OKLAHOMA

Chairman Baucus, thank you for holding today's hearing. The Yellowstone River is truly one of America's great treasures and we all share your concern with the recent spill. In addition, we all owe a debt of gratitude to the work crews from EPA, Coast Guard, U.S. Fish and Wildlife Service, Montana State and local agencies, and others who for the past 2 weeks have worked long hours to protect health and wildlife in the affected area.

As Congress examines this incident the most important order of business should focus on three priorities:

- Mitigate and contain the environmental impacts;
- Provide assistance to those affected; and
- Investigate the causes so we can prevent a mishap of this kind from happening again.

And I would add this: let's avoid overreacting. Now this incident is serious—perhaps 750 to 1,000 barrels of oil were spilled into the river. But, unfortunately, I'm afraid that this spill has occasioned some misguided calls against pipelines and oil development. Already, some politicians have leveraged this spill in opposition to the expansion of the Keystone pipeline which would double the amount of crude we receive from Canada, reducing our imports from overseas.

Instead, let's look to the common sense testimony of one of today's witnesses, Scott McBurney, a local landowner adjacent to the spill on the Yellowstone. He said, "I need oil, it's just a fact of life, there's no such thing as a plug-in tractor. This country needs oil. More than that, we need the jobs the oil industry brings to Eastern Montana. The Yellowstone Valley is a better place because the Exxon/Mobil refinery is here. I know a lot of people would take exception to this opinion, but I believe it."

Mr. Chairman, he's right. This country needs oil. It's important that our response to this tragedy be measured, and it be based on facts. Let's avoid getting sidetracked by other issues like the Keystone pipeline that will needlessly complicate efforts to address the current spill. I'm looking forward to hearing from all our witnesses today.

